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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 8th August, 1986:—

BILL NO. 95 OF 1986

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Fifty-Fourth Amendment) Act, 1986. Short title.

2. In article 125 of the Constitution, for clause (1), the following clause shall be substituted, namely:— Amendment of article 125.

"(1) There shall be paid to the Judges of the Supreme Court such salaries as may be determined by Parliament by law and, until provision in that behalf is so made, such salaries as are specified in the Second Schedule.".

3. In article 221 of the Constitution, for clause (1), the following clause shall be substituted, namely:— Amendment of article 221.

"(1) There shall be paid to the Judges of each High Court such salaries as may be determined by Parliament by law and, until provision in that behalf is so made, such salaries as are specified in the Second Schedule.".

Amend ment of Second Schedule.

4. In the Second Schedule to the Constitution, in Part D,—

(*a*) in sub-section (1) of paragraph 9,—

(*i*) for the figures and word "5,000 rupees", the figures and word "10,000 rupees" shall be substituted;

(*ii*) for the figures and word "4,000 rupees", the figures and word "9,000 rupees" shall be substituted;

(*b*) in sub-paragraph (1) of paragraph 10,—

(*i*) for the figures and word "4,000 rupees", the figures and word "9,000 rupees" shall be substituted;

(*ii*) for the figures and word "3,500 rupees", the figures and word "8,000 rupees" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The salaries of Judges of the Supreme Court and the High Courts are governed by the provisions of Part D of the Second Schedule to the Constitution of India as indicated below:

Chief Justice of India	Rs. 5,000 per month
Judges of the Supreme Court	Rs. 4,000 per month
Chief Justice of a High Court	Rs. 4,000 per month
Judges of a High Court	Rs. 3,500 per month

2. These salaries have remained static since 1950, despite high inflation and price rise that has taken place during all these years. The Joint Conference of Chief Justices, Chief Ministers and Law Ministers of the States held on 31st August and 1st September, 1985, *inter alia,* discussed and recommended improvement in service conditions of Judges including increase in their salaries, not only to minimise the inflationary pressures on them but also to attract best talents in the country to man the judicial posts.

3. Having considered all aspects of the matter, it is proposed to increase the salaries of the Judges as detailed below:

Chief Justice of India	Rs. 10,000 per month
Judges of the Supreme Court	Rs. 9,000 per month
Chief Justice of a High Court	Rs. 9,000 per month
Judges of a High Court	Rs. 8,000 per month

4. This Bill seeks to amend Part D of the Second Schedule to the Constitution to give effect to the above increases in the salaries of Judges and to make an enabling provision in articles 125 and 221 to provide for changes in the salaries of Judges in future by Parliament by law.

NEW DELHI; A. K. SEN.
The 4th August, 1986.

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to amend article 125 of the Constitution to make an enabling provision to provide for the changes in the salaries of Supreme Court Judges in future by parliamentary law. Similarly, clause 3 of the Bill seeks to amend article 221 of the Constitution to make an enabling provision to provide for the changes in the salaries of High Court Judges in future by parliamentary law. Clause 4 of the Bill seeks to amend the Second Schedule to the Constitution to enhance the salary of the Chief Justice of India from Rs. 5,000 per month to Rs. 10,000 per month and that of other Judges of the Supreme Court/Chief Justices of the High Courts from Rs. 4,000 per month to Rs. 9,000 per month and the Judges of the High Court from Rs. 3,500 per month to Rs. 8,000 per month.

2. The additional expenditure that is likely to be incurred in view of the above increases in respect of the Judges of the Supreme Court and the Delhi High Court will be charged on the Consolidated Fund of India. In respect of Judges of the other High Courts, this expenditure will be a charge on the Consolidated Fund of the respective States. The sanctioned strength of the Judges of the Supreme Court and the Delhi High Court is at present 26 and 27, respectively. Apart from their salary as fixed in Part D of the Second Schedule to the Constitution, the Judges are entitled to dearness allowance, additional dearness allowance and interim relief as admissible to members of the All-India Services. On this basis the present total monthly emoluments drawn by the Chief Justice of India, Judges of the Supreme Court/Chief Justices of the High Courts and the Judges of the High Courts are Rs. 8,150,00, Rs. 7,050,00 and Rs. 6,500,00, respectively. The actual additional recurring expenditure that is therefore likely to be incurred from the Consolidated Fund of India in so far as it relates to the Supreme Court and the Delhi High Court will be of the order of Rs. 10,98,600.00 per annum.

3. No other expenditure, either recurring or non-recurring, is likely to be incurred.

BILL NO. 97 OF 1986

A Bill to provide for the abolition of the Legislative Council of the State of Tamil Nadu and for matters supplemental, incidental and consequential thereto.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Tamil Nadu Legislative Council (Abolition) Act, 1986.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means, as respects a law relating to a matter enumerated in List I in the Seventh Schedule to the Constitution, the Central Government, and as respects any other law, the State Government;

(*b*) "article" means an article of the Constitution;

(*c*) "Council" means the Legislative Council of the State of Tamil Nadu;

(*d*) "law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having the force of law in the whole or any part of the State of Tamil Nadu;

(*e*) "Legislative Assembly" means the Legislative Assembly of the State of Tamil Nadu.

Abolition of the Council.

3. (*1*) The Legislative Council of the State of Tamil Nadu is hereby abolished.

(2) On the abolition of the Council, every member thereof shall cease to be such member.

Amendment of article 168.

4. In sub-clause (*a*) of clause (1) of article 168, the words "Tamil Nadu," shall be omitted.

Amendment of Act 43 of 1950.

5. In the Representation of the People Act, 1950,—

(*a*) in the Third Schedule, entry No. 4 relating to Tamil Nadu shall be omitted;

(*b*) in the Fourth Schedule, the heading "Tamil Nadu" and the entries thereunder shall be omitted.

Repeal of the Delimitation of Council Constituencies (Madras) Order, 1951.

6. The Delimitation of Council Constituencies (Madras) Order, 1951, is hereby repealed.

Provision as to pending Bills.

7. (*1*) A Bill pending in the Council immediately before the commencement of this Act which has not been passed by the Legislative Assembly shall lapse on the abolition of the Council.

(*2*) A Bill pending in the Council immediately before the commencement of this Act which has been passed by the Legislative Assembly shall not lapse on the abolition of the Council, but on such abolition shall be deemed to have been passed before such commencement by both Houses of the Legislature of the State of Tamil Nadu in the form in which it was passed by the Legislative Assembly.

(*3*) If a Bill which having been passed by the Legislative Assembly is, before the commencement of this Act, either rejected by the Council or passed by the Council with amendments, the Legislative Assembly may, after such commencement, pass the Bill again with or without such amendments, if any, as have been made by the Council and the Bill so passed shall be deemed to be a Bill introduced in and passed by the Legislative Assembly after the Commencement of this Act.

Power to adapt laws.

8. The appropriate Government may, before the expiration of one year from the commencement of this Act, by order, published in the Official Gazette, make such adaptations and modifications of any law made before such commencement whether by way of repeal or amendment as may be necessary or expedient in consequence of the abolition of the Council under section 3, and thereupon every such law shall have effect subject to the adaptations and modifications so made.

Power to construe laws.

9. Notwithstanding that no provision or insufficient provision has been made under section 8 for the adaptation or modification of a law made before the commencement of this Act, any court, tribunal or authority required or empowered to enforce such law may construe the law in such manner, without affecting the substance, as may be necessary or proper on account of the abolition of the Council, in regard to the matter before the court, tribunal or authority.

STATEMENT OF OBJECTS AND REASONS

Under article 169 of the Constitution, Parliament may, by law, provide for the abolition of the Legislative Council of a State having such a Council, if the Legislative Assembly of the State passes a resolution to that effect by a majority of the total membership of the Assembly and by a majority of not less than two-thirds of the members of the Assembly present and voting. On the 14th May, 1986, the Legislative Assembly of the State of Tamil Nadu passed a resolution in terms of article 169 of the Constitution for the abolition of the Legislative Council of that State. It is accordingly proposed to abolish the Legislative Council of the State of Tamil Nadu.

2. The Bill seeks to give effect to this object and also provides for matters supplemental, incidental and consequential to such abolition.

NEW DELHI:
The 4th August, 1986.

H. R. BHARDWAJ.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the appropriate Government to make such adaptations and modifications of any law made before the commencement of the proposed legislation as may be necessary or expedient in consequence of the abolition of the Legislative Council of the State of Tamil Nadu. This power will be available only for a period of one year from the commencement of the proposed legislation. The adaptations and modifications can be only such as are necessary or expedient in consequence of the abolition of the Council and cannot affect the substance of the laws adapted or modified.

2. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 93 OF 1986

A Bill to provide for the constitution and regulation of an armed force of the Union for combating terrorist activities with a view to protecting States against internal disturbances and for matters connected therewith.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the National Security Guard Act, 1986. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. (*1*) In this Act, unless the context otherwise requires,— Definitions.

(*a*) "active duty", in relation to a person subject to this Act, means any duty as a member of the Security Guard during the period in which such person is attached to, or forms part of, a unit of the Security Guard—

(*i*) which is engaged in operations against terrorists or any person in arms against the Union; or

(*ii*) which is operating at a picket or engaged on patrol or any other duty, in relation to combating terrorist activity;

(*b*) "Assistant Commander" means a person appointed or in pay as an Assistant Commander Grade I, Assistant Commander Grade II or Assistant Commander Grade III;

(*c*) "civil offence" means an offence which is triable by a criminal court or by a special Judge appointed under the Criminal Law Amendment Act, 1952; 46 of 1952.

(*d*) "civil prison" means any jail or place used for the detention of any criminal prisoner under the Prisons Act, 1894, or under any other law for the time being in force; 9 of 1894.

(*e*) "combatised tradesman" means a person appointed or in pay as a combatised tradesman;

(*f*) "Commander", when used in any provision of this Act with reference to any unit of the Security Guard, means the officer whose duty it is to discharge with respect to that unit, the functions of a Commander in regard to matters of the description referred to in that provision;

(*g*) "criminal court" means a court of ordinary criminal justice in any part of India and includes a Court of a special Judge appointed under the Criminal Law Amendment Act, 1952; 46 of 1952.

(*h*) "Deputy Inspector-General" means a Deputy Inspector-General of the Security Guard appointed under section 5;

(*i*) "Director-General" and "Additional Director-General" mean, 'respectively', the Director-General and an Additional Director-General of the Security Guard appointed under section 5;

(*j*) "Group" means a unit of the Security Guard constituted as a Group by the Central Government;

(*k*) "Group Commander" means a Group Commander of the Security Guard appointed under section 5;

(*l*) "Inspector-General" means an Inspector-General of the Security Guard appointed under section 5;

(*m*) "Judge Attorney-General", "Additional Judge Attorney-General", "Deputy Judge Attorney-General" and "Judge Attorney" mean, respectively, the Judge Attorney-General, an Additional Judge Attorney-General, a Deputy Judge Attorney-General and a Judge Attorney of the Security Guard appointed in the appropriate rank by the Central Government;

(*n*) "member of the Security Guard" means an officer, an Assistant Commander, a Ranger or a combatised tradesman;

(*o*) "notification" means a notification published in the Official Gazette;

(*p*) "offence" means any act or omission punishable under this Act and includes a civil offence;

(*q*) "officer" means a person appointed or in pay as an officer of the Security Guard;

(*r*) "prescribed" means prescribed by rules;

(*s*) "Ranger" means a Ranger Grade I and a Ranger Grade II of the Security Guard;

(*t*) "rule" means a rule made under this Act;

(*u*) "Security Guard" means the National Security Guard;

(*v*) "Security Guard Court" means a Court referred to in section 61;

(*w*) "Security Guard custody" means the arrest or confinement of a member of the Security Guard according to rules;

(*x*) "superior officer", when used in relation to a person subject to this Act, means—

(*i*) any member of the Security Guard to whose command such person is for the time being subject in accordance with the rules;

(*ii*) any officer of a higher rank or class,

and includes, when such person is not an officer, an Assistant Commander or a Ranger of a higher rank or class;

(*y*) "terrorist" means any person who, with intent to over-awe the Government as by law established or to strike terror in the people or any section of the people or to alienate any section of the people or to adversely affect the harmony amongst different sections of the people, does any act or thing by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisons or noxious gases or other chemicals or any other substances (whether biological or otherwise) of a hazardous nature, in such a manner as to cause, or as is likely to cause, death of, or injuries to, any person or persons or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community;

(*z*) all words and expressions used and not defined in this Act but defined in the Indian Penal Code shall have the meanings respectively assigned to them in that Code.

45 of 1860.

(2) In this Act, references to any law not in force in any State shall be construed as references to the corresponding law in force in that State.

Persons subject to this Act.

3. (1) The following persons appointed (whether on deputation or in any other manner) in the Security Guard shall be subject to this Act, wherever they may be, namely:—

(*a*) officers and Assistant Commanders; and

(*b*) Rangers and combatised tradesmen.

(2) Every person subject to this Act shall remain so subject until repatriated, retired, released, discharged, removed or dismissed from the Security Guard in accordance with the provisions of this Act and the rules.

CHAPTER II

CONSTITUTION OF THE SECURITY GUARD AND CONDITIONS OF SERVICE OF THE MEMBERS OF THE SECURITY GUARD

Constitution of the Security Guard.

4. (1) There shall be an armed force of the Union called the National Security Guard for combating terrorist activities with a view to protect States against internal disturbances.

(2) Subject to the provisions of this Act, the Security Guard shall be constituted in such manner as may be prescribed and the conditions of service of the members of the Security Guard shall be such as may be prescribed.

Control, direction, etc.

5. (1) The general superintendence, direction and control of the Security Guard shall vest in, and be exercised by, the Central Government and subject thereto and to the provisions of this Act and the rules, the command and supervision of the Security Guard shall vest in an officer to be appointed by the Central Government as the Director-General of the Security Guard.

(2) The Director-General shall, in the discharge of his duties under this Act, be assisted by such number of Additional Director-General, Inspectors-General, Deputy Inspectors-General, Group Commanders and other officers as may be appointed by the Central Government.

Liability for service outside India.

6. Every member of the Security Guard shall be liable to serve in any part of India as well as outside India.

Resignation and withdrawal from the post.

7. No member of the Security Guard shall be at liberty—

(*a*) to resign his appointment during the term of his engagement; or

(*b*) to withdraw himself from all or any of the duties of his appointment,

except with the previous permission in writing of the prescribed authority.

Tenure of service under the Act.

8. Every person subject to this Act shall hold office during the pleasure of the President.

Termination of service by Central Government.

9. Subject to the provisions of this Act and the rules, the Central Government may dismiss or remove from service any person subject to this Act.

Dismissal, removal or reduction by the Director-General and by other officers.

10. (*1*) The Director-General, any Additional Director-General or any Inspector-General may dismiss or remove from service or reduce to a lower grade or rank or the ranks, any person subject to this Act other than an officer.

(*2*) An officer not below the rank of a Deputy Inspector-General or any prescribed officer may dismiss or remove from the service any person under his command other than an officer or an Assistant Commander.

(3) Any such officer as is mentioned in sub-section (2) may reduce to a lower grade or rank or the ranks any person under his command except an officer or an Assistant Commander.

(4) The exercise of any power under this section shall be subject to the provisions of this Act and the rules.

Certificate of termination of service.

11. An Assistant Commander or a Ranger or a combatised tradesman who is retired, released, discharged, removed or dismissed from the service shall be furnished by the officer to whose command he is subject, with a certificate setting forth—

(a) the authority terminating his service;

(b) the cause for such termination; and

(c) the full period of his service in the Security Guard.

Restrictions respecting right to form associations, freedom of speech, etc.

12. (1) No person subject to this Act shall, without the previous sanction in writing of the Central Government or of the prescribed authority,—

(a) be a member of, or be associated in any way with, any trade union, labour union, political association or with any class of trade unions, labour unions or political associations; or

(b) be a member of, or be associated in any way with, any society, institution, association or organisation that is not recognised as part of the Security Guard or is not of a purely social, recreational or religious nature; or

(c) communicate with the press or publish or cause to be published any book, letter or other document except where such communication or publication is in the *bona fide* discharge of his duties or is of a purely literary, artistic or scientific character or is of a prescribed nature.

Explanation.—If any question arises as to whether any society, institution, association or organisation is of a purely social, recreational or religious nature under clause (b) of this sub-section, the decision of the Central Government thereon shall be final.

(2) No person subject to this Act shall participate in, or address, any meeting or take part in any demonstration organised by any body of persons for any political purposes or for such other purposes as may be prescribed.

Remedy of aggrieved persons other than officers.

13. (1) Any person subject to this Act other than an officer who deems himself wronged by any superior or other officer may, complain to the officer under whose command he is serving

(2) When the officer complained against is the officer to whom any complaint should under sub-section (1), be preferred, the aggrieved person may complain to such officer's next superior officer.

(3) Every officer receiving any such complaint shall make as complete an investigation into it as may be possible for giving full redress to the complainant; or when necessary, refer the complaint to a superior authority.

(4) The Director-General may revise any decision made under any of the foregoing sub-sections, but, subject thereto, such decision shall be final.

Remedy of aggrieved officers.

14. Any officer who deems himself wronged by his Commander or any other superior officer and who, on due application made to his Commander or such other superior officer, does not receive the redress to which he considers himself entitled, may complain to the Director-General or the Central Government through proper channel.

CHAPTER III

OFFENCES

Offences in relation to the terrorists and other persons in arms against the Union and punishable with death.

15. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) shamefully abandons place of his duty or misbehaves in such manner as to show cowardice during operations;

(*b*) treacherously holds correspondence with, or communicates intelligence to, a terrorist or any person in arms against the Union; or

(*c*) directly or indirectly assists any terrorist with money, arms, ammunition, stores or supplies or in any other manner whatsoever; or

(*d*) knowingly does any act calculated to imperil the success of the Security Guard or the military, naval, air forces or any other armed force of India or any forces co-operating therewith or any part of such forces,

shall, on conviction by a Security Guard Court, be liable to suffer death or such less punishment as is in this Act mentioned.

Offence punishable more severely on active duty than at other times.

16. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) forces a safeguard, or forces or uses criminal force to a sentry; or

(*b*) breaks into any house or other place in search of plunder; or

(*c*) being a sentry sleeps upon his post, or is drunk; or

(*d*) without orders from his superior officer leaves his guard, picket, patrol or post,

shall, on conviction by a Security Guard Court,—

(*i*) if he commits any such offence when on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(*ii*) if he commits any such offence when not on active duty, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Mutiny.

17. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) begins, incites, causes or conspires with any other person to cause any mutiny in the Security Guard or in the military, naval, air forces or any other armed force of India or any forces co-operating therewith; or

(*b*) joins in any such mutiny; or

(*c*) being present at any such mutiny, does not use his utmost endeavours to suppress the same; or

(*d*) knowing or having reason to believe in the existence of any such mutiny, or of any intention to mutiny or of any such conspiracy, does not, without delay, give information thereof to his Commander or other superior officer; or

(*e*) endeavours to seduce any person in the Security Guard or in the military, naval, air forces or any other armed force of India or any forces co-operating therewith from his duty or allegiance to the Union,

shall, on conviction by a Security Guard Court, be liable to suffer death or such less punishment as is in this Act mentioned.

Desertion and aiding desertion.

18. (*1*) Any person subject to this Act who deserts or attempts to desert the service shall, on conviction by a Security Guard Court,—

(*a*) if he commits the offence when on active duty or when under orders for active duty, be liable to suffer death or such less punishment as is in this Act mentioned; and

(*b*) if he commits the offence under any other circumstances, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(*2*) Any person subject to this Act who knowingly harbours any such deserter shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

(*3*) Any person subject to this Act who, being cognizant of any desertion or attempt at desertion of a person subject to this Act, does not forthwith give notice to his own or some other superior officer, or take any steps in his power to cause such person to be apprehended, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

(*4*) For the purposes of this Act, a person deserts,—

(*a*) if he absents from his unit or the place of duty at any time with the intention of not reporting back to such unit or place, or who, at any time and under any circumstances when absent from his unit or place of duty, does any act which shows that he has an intention of not reporting to such unit or place of duty;

(*b*) if he absents himself without leave with intent to avoid any active duty.

Absence without leave.

19. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) absents himself without leave; or

(*b*) without sufficient cause overstays leave granted to him; or

(*c*) being on leave of absence and having received information from the appropriate authority that any unit or part thereof to which he belongs, has been ordered on active duty, fails, without sufficient cause, to rejoin without delay; or

(*d*) without sufficient cause fails to appear at the time fixed at the parade or place appointed for exercise or duty; or

(*e*) when on parade, or on the line of march, without sufficient cause or without leave from his superior officer, quits the parade or line of march; or

(*f*) when in camp or elsewhere, is found beyond any limits fixed, or in any place prohibited, by any general, local or other order, without a pass or written leave from his superior officer; or

(*g*) without leave from his superior officer or without due cause, absents himself from any school when duly ordered to attend there,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

Striking or threatening superior officer.

20. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) uses criminal force to or assaults his superior officer; or

(*b*) uses threatening language to such officer; or

(*c*) uses insubordinate language to such officer,

shall, on conviction by a Security Guard Court,—

(*i*) if such officer is at the time in the execution of his office or, if the offence is committed on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(*ii*) in other cases, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned:

Provided that in the case of any offence specified in clause (*c*), the imprisonment shall not exceed five years.

Disobedience to superior officer.

21. (*1*) Any person subject to this Act who disobeys, in such manner as to show a wilful defiance of authority, any lawful command given personally by his superior officer in the execution of his office whether the same is given orally, or in writing or by signal or otherwise, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

(2) Any person subject to this Act who disobeys any lawful command given by his superior officer shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Assault and obstruction.

22. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being concerned in any quarrel, affray or disorder, refuses to obey any officer, though of inferior rank, who orders him into arrest, or uses criminal force to or assaults any such officer; or

(*b*) uses criminal force to, or assaults any person, whether subject to this Act or not, in whose custody he is lawfully placed, and whether he is or is not his superior officer; or

(c) resists an escort whose duty it is to apprehend him or have him in charge; or

(d) breaks out of barracks, camp or quarters; or

(e) refuses to obey any general, local or other order,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend, in the case of offences specified in clauses (d) and (e), to two years, and in the case of the offences specified in the other clauses, to ten years, or in either case such less punishment as is in this Act mentioned.

Certain forms of disgraceful conduct.

23. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) is guilty of any disgraceful conduct of a cruel, indecent or unnatural kind; or

(b) malingers or feigns or produces disease or infirmity in himself or intentionally delays his cure or aggravates his disease or infirmity; or

(c) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or that person,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Ill-treating a subordinate.

24. Any officer, Assistant Commander or Ranger Grade I, who uses criminal force to, or otherwise ill-treats, any person subject to this Act, being his subordinate in rank or position, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Drunkenness.

25. (1) Any person subject to this Act, who is found in a state of drunkenness, whether on duty or not, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to six months or such less punishment as is in this Act mentioned.

(2) For the purposes of sub-section (1), a person shall be deemed to be in a state of drunkenness if, owing to the influence of alcohol or any drug whether alone or in combination with any other substance, he is unfit to be entrusted with his duty or with any duty which he may be called upon to perform or behaves in a disorderly manner or in a manner likely to bring discredit to the Security Guard.

Permitting escape of person in custody.

26. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) when in command of a guard, picket, patrol, detachment or post, releases without proper authority, whether wilfully or without reasonable excuse, any person committed to his charge, or refuses to receive any prisoner or person so committed; or

(*b*) wilfully or without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to keep or guard,

shall, on conviction by a Security Guard Court, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned; and if he has not acted wilfully, to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

Irregularity in connection with arrest or confinement.

27. Any person subject to this Act who commits any of the following offences that is to say,—

(*a*) unnecessarily detains a person in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation; or

(*b*) having committed a person to Security Guard custody fails without reasonable cause to deliver at the time of such committal, or as soon as practicable, and in any case within forty-eight hours thereafter, to the officer or other person into whose custody the person arrested is committed, an account in writing signed by himself of the offence with which the person so committed is charged,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to one year or such less punishment as is in this Act mentioned.

Escape from custody.

28. Any person subject to this Act who, being in lawful custody, escapes or attempts to escape, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

Offences in respect of property

29. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) commits theft of any property belonging to the Government, or to any Security Guard mess, band or institution, or to any person subject to this Act; or

(*b*) dishonestly misappropriates or converts to his own use any such property; or

(*c*) commits criminal breach of trust in respect of any such property; or

(*d*) dishonestly receives or retains any such property in respect of which any of the offences under clauses (*a*), (*b*) and (*c*) has been committed, knowing or having reason to believe the commission of such offence; or

(*e*) wilfully destroys or injures any property of the Government entrusted to him; or

(*f*) does any other thing with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

Extortion and exaction.

30. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) commits extortion; or

(b) without proper authority exacts from any person money, provisions or service,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

Making away with equipment.

31. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) makes away with, or is concerned in making away with, any arms, ammunition, equipment, instruments, tools, clothing or any other thing being the property of the Government issued to him for his use or entrusted to him; or

(b) loses by neglect anything mentioned in clause (a); or

(c) sells, pawns, destroys or defaces any medal or decoration granted to him,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend, in the case of the offences specified in clause (a), to ten years, and in the case of the offences specified in the other clauses, to five years, or in either case such less punishment as is in this Act mentioned.

Injury to property

32. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) destroys or injures any property mentioned in clause (a) of section 31, or any property belonging to any Security Guard mess, band or institution, or to any person subject to this Act; or

(b) commits any act which causes damage to, or destruction of, any property of the Government by fire or in any other manner whatever; or

(c) kills, injures, makes away with, ill-treats or loses, any animal entrusted to him,

shall, on conviction by a Security Guard Court, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned; and if he has acted without reasonable excuse, to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

False accusations.

33. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) makes a false accusation against any person subject to this Act, knowing or having reason to believe such accusation to be false; or

(b) in making a complaint against any person subject to this Act makes any statement affecting the character of such person,

knowing or having reason to believe such statement to be false, or knowingly and wilfully suppresses any material fact,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

Falsifying official documents and false declarations.

34. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) in any report, return, list, certificate, book or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy, knowingly makes, or is privy to the making of, any false or fraudulent statement; or

(*b*) in any document of the description mentioned in clause (*a*) knowingly makes, or is privy to the making of, any omission, with intent to defraud; or

(*c*) knowingly and with intent to injure any person, or knowingly and with intent to defraud, suppresses, defaces, alters or makes away with any document which it is his duty to preserve or produce; or

(*d*) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration; or

(*e*) obtains for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

False declaration on appointment.

35. Any person having become subject to this Act who is discovered to have made at the time of appointment a wilfully false statement or declaration in connection with his appointment, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

Offences relating to Security Guard Court.

36. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being duly summoned or ordered to attend as a witness before a Security Guard Court, wilfully or without reasonable excuse, makes default in attending; or

(*b*) refuses to take an oath or make an affirmation legally required by a Security Guard Court to be taken or made; or

(*c*) refuses to produce or deliver any document in his power or control legally required by a Security Guard Court to be produced or delivered by him; or

(*d*) refuses, when a witness, to answer any question which he is by law bound to answer; or

(*e*) is guilty of contempt of the Security Guard Court by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

False evidence.

37. Any person subject to this Act who, having been duly sworn or affirmed before any Security Guard Court, or before any officer competent under this Act to administer oath or affirmation or before a Court of inquiry constituted under this Act, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Unlawful detention of pay.

38. Any officer, Assistant Commander or Ranger Grade I who, having received the pay of a person subject to this Act unlawfully detains or refuses to pay the same when due, shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

Unbecoming conduct.

39. Any officer or Assistant Commander who behaves in a manner unbecoming of his position and the character expected of him shall, on conviction by a Security Guard Court, be liable to be dismissed or to suffer such less punishment as is in this Act mentioned.

Violation of good order and discipline.

40. Any person subject to this Act who is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and discipline of the Security Guard shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Miscellaneous offences.

41. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being in command of any detachment or post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has caused disturbance at any public place, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority; or

(*b*) by defiling any place of worship, or otherwise intentionally insults the religion, or wounds the religious feelings of any person; or

(*c*) attempts to commit suicide, and in such attempt does any act towards the commission of such offence; or

(*d*) being below the rank of an Assistant Commander, when off duty, appears without proper authority, in or about camp, or in or about, or when going to, or returning from, any town, carrying a rifle, sword or other offensive weapon; or

(*e*) directly or indirectly accepts or obtains, or agrees to accept, or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the appointment of any

person, or leave of absence, promotion or any other advantage or indulgence for any person in the service; or

(*f*) commits any offence against the property or person of any inhabitant of, or resident in, the country in which he is serving,

shall, on conviction by a Security Guard Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Attempt.

42. Any person subject to this Act who attempts to commit any of the offences specified in sections 15 to 41 (both inclusive) and in such attempt does any act towards the commission of the offence shall, on conviction by a Security Guard Court, where no express provision is made by this Act for the punishment of such attempt, be liable,—

(*a*) if the offence attempted to be committed is punishable with death, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(*b*) if the offence attempted to be committed is punishable with imprisonment, to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

Abetment of offences that have been committed.

43. Any person subject to this Act who abets the commission of any of the offences specified in sections 15 to 41 (both inclusive) shall, on conviction by a Security Guard Court, if the act abetted is committed in consequence of the abetment and no express provision is made by this Act for the punishment of such abetment, be liable to suffer the punishment provided for that offence or such less punishment as is in this Act mentioned.

Abetment of offences that have not been committed.

44. (*1*) Any person subject to this Act who abets the commission of any of the offences punishable with death under sections 15, 17 and sub-section (*1*) of section 18 shall, on conviction by a Security Guard Court, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

(*2*) Any person subject to this Act who abets the commission of any of the offences specified in sections 15 to 41 (both inclusive) and punishable with imprisonment shall, on conviction by a Security Guard Court, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

Civil offences

45. Subject to the provisions of section 46, any person subject to this Act who at any place in, or beyond, India commits any civil offence shall be deemed to be guilty of an offence against this Act and, if charged therewith under this section shall be liable to be tried by a Security Guard Court and, on conviction, be punishable as follows, that is to say,—

(*a*) if the offence is one which would be punishable under any law in force in India with death, he shall be liable to suffer any punish-

ment, assigned for the offence, by the aforesaid law and such less punishment as is in this Act mentioned; and

(*b*) in any other case, he shall be liable to suffer any punishment, assigned for the offence by the law in force in India, or imprisonment for a term which may extend to seven years, or such less punishment as is in this Act mentioned.

Civil offences not triable by a Security Guard Court.

46. A person subject to this Act who commits an offence of murder or of culpable homicide not amounting to murder against, or of rape in relation to, a person not subject to this Act shall not be deemed to be guilty of an offence under this Act and shall not be tried by a Security Guard Court, unless he commits any of the said offences,—

(*a*) while on active duty; or

(*b*) at any place outside India.

CHAPTER IV

PUNISHMENTS

Punishments awardable by Security Guard Courts.

47. (*1*) Punishments may be inflicted in respect of offences committed by persons subject to this Act and convicted by Security Guard Courts according to the scale following, that is to say,—

(*a*) death;

(*b*) imprisonment which may be for the term of life or any other lesser term but excluding imprisonment for a term not exceeding three months in Security Guard custody;

(*c*) dismissal from the service;

(*d*) imprisonment for a term not exceeding three months in Security Guard custody;

(*e*) reduction to the ranks or to a lower rank or grade in the case of a Ranger Grade I;

(*f*) forfeiture of seniority of rank and forfeiture of all or any part of the service for the purpose of promotion where promotion depends upon length of service;

(*g*) forfeiture of service for the purpose of increment or pension or other prescribed purpose;

(*h*) severe reprimand or reprimand except in the case of persons below the rank of Ranger Grade I;

(*i*) forfeiture in the case of a person sentenced to dismissal from the service of all arrears of pay and allowances and other public money due to him at the time of such dismissal;

(*j*) deduction from pay and allowances to make good any proved loss or damage occasioned by the offence for which he is convicted.

(2) Each of the punishments specified in sub-section (*1*) shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Alternative punishments awardable by Security Guard Courts.

48. Subject to the provisions of this Act, a Security Guard Court may, on convicting a person subject to this Act of any of the offences specified in sections 15 to 44 (both inclusive) award either the particular punishment with which the offence is stated in the said sections to be punishable or, in lieu thereof, any one of the punishments lower in the scale set out in section 47 regard being had to the nature and degree of the offence.

Combination of punishments.

49. A sentence of a Security Guard Court may award in addition to, or without any one other punishment, the punishment specified in clause (*c*) of sub-section (*1*) of section 47 and any one or more of the punishments specified in clauses (*e*) to (*j*) (both inclusive) of that sub-section.

Punishments otherwise than by Security Guard Courts.

50. Punishments may also be inflicted in respect of offences committed by persons subject to this Act without the intervention of a Security Guard Court in the manner stated in sections 51 and 53.

Minor punishments.

51. (*1*) Subject to the provisions of section 52, a Commander of and above the rank of a Group Commander may, in the prescribed manner proceed against a person subject to this Act other than an officer or an Assistant Commander, who is charged with an offence under this Act and award such person, to the extent prescribed, one or more of the following punishments; that is to say,—

(*a*) imprisonment in Security Guard custody up to twenty-eight days;

(*b*) detention up to twenty-eight days;

(*c*) confinement to the lines up to twenty-eight days;

(*d*) extra guards or duties;

(*e*) deprivation of any acting rank provided such rank has not been held by him for more than two years;

(*f*) severe reprimand or reprimand;

(*g*) deductions from his pay and allowances of any sum required to make good any loss or damage occasioned by the offence for which he is punished.

(*2*) If a group is being temporarily commanded by an officer of the rank of a Squadron Commander or a Team Commander, such officer shall have full powers of a Commander as specified in sub-section (*1*).

(*3*) Subject to the provisions of section 52, a Squadron Commander or a Team Commander commanding a squadron or a team or any detachment shall have the power to proceed against a person subject to this Act, other than an officer or an Assistant Commander, who is charged with an offence under this Act and award such person to the extent prescribed, one or more of the punishments specified in clauses (*a*) to (*d*) and (*g*) of sub-section (*1*) provided that the maximum limit of punishment awarded under each of the clauses (*a*), (*b*) and (*c*) shall not exceed fourteen days.

Limit of punishments under section 51.

52. (*1*) In the case of an award of two or more of the punishments specified in clauses (*a*), (*b*), (*c*) and (*d*) of sub-section (*1*) of section 51, the punishments specified in clause (*c*) or clause (*d*) shall take effect only at the end of the punishment specified in clause (*a*) or clause (*b*).

(*2*) When two or more of the punishments specified in the said clauses (*a*), (*b*) and (*c*) are awarded to a person conjointly, or when already undergoing one or more of the said punishments, the whole extent of the punishments shall not exceed in the aggregate fifty-six days.

(*3*) The punishments specified in the said clauses (*a*), (*b*) and (*c*) shall not be awarded to any person who is of the rank of Ranger Grade I or was, at the time of committing the offence for which he is punished, of such rank.

(*4*) The punishment specified in clause (*f*) of sub-section (*1*) of section 51 shall not be awarded to any person below the rank of Ranger Grade I.

Punishment of officers of or below the rank of Squadron Commanders by officers not below the rank of Inspectors-General.

53. An officer not below the rank of an Inspector-General may in the prescribed manner, proceed against an officer of or below the rank of a Squadron Commander, who is charged with an offence under this Act, and award one or more of the following punishments, that is to say,—

(*a*) forfeiture of seniority, or in the case of any of them whose promotion depends upon length of service, forfeiture of service for the purpose of promotion for a period not exceeding one year, but subject to the right of the accused previous to the award to elect to be tried by a General Security Guard Court;

(*b*) severe reprimand or reprimand;

(*c*) deduction from pay and allowances of any sum required to make good any proved loss or damage occasioned by the offence of which he is convicted.

Punishment of persons of the rank of Assistant Commander.

54. (*1*) An officer not below the rank of a Deputy Inspector-General may, in the prescribed manner, proceed against a person of the rank of an Assistant Commander who is charged with an offence under this Act and award one or more of the following punishments, that is to say,—

(*a*) forfeiture of seniority, or in the case of any of them whose promotion depends upon the length of service, forfeiture of service for the purpose of promotion for a period not exceeding one year, but subject to the right of the accused previous to the award to elect to be tried by a General Security Guard Court;

(*b*) severe reprimand or reprimand;

(*c*) deduction from pay and allowances of any sum required to make good any proved loss or damage occasioned by the offence of which he is convicted.

(*2*) An officer of the rank of a Group Commander may, in the prescribed manner, proceed against a person of the rank of an Assistant Commander who is charged with an offence under this Act and award any one or both of the following punishments, that is to say,—

(*a*) severe reprimand or reprimand;

(*b*) deduction from pay and allowances of any sum required to make good any proved loss or damage occasioned by the offence of which he is convicted.

CHAPTER V

ARREST AND PROCEEDINGS BEFORE TRIAL

Custody of offenders.

55. (*1*) Any person subject to this Act who is charged with an offence may be taken into Security Guard custody, under the order of any superior officer.

(*2*) Notwithstanding anything contained in sub-section (*1*), an officer may order into Security Guard custody any other officer, though such other officer may be of a higher rank, engaged in a quarrel, affray or disorder.

Duty of Commander in regard to detention.

56. (*1*) It shall be the duty of every Commander to take care that a person under his command when charged with an offence is not detained in custody for more than forty-eight hours after the committal of such person into custody is reported to him, without the charge being investigated, unless investigation within that period seems to him to be impracticable having regard to the public service.

(*2*) The case of every person being detained in custody beyond a period of forty-eight hours, and the reasons therefor, shall be reported by the Commander to the next higher authority.

(*3*) In reckoning the period of forty-eight hours specified in sub-section (*1*), Sundays and other public holidays shall be excluded.

(*4*) Subject to the provisions of this Act, the Central Government may make rules providing for the manner in which and the period for which any person subject to this Act may be taken into and detained in Security Guard custody, pending the trial by any competent authority for any offence committed by him.

Interval between committal and trial.

57. In every case where any such person as is mentioned in section 55 and as is not on active duty, remains in such custody for a longer period than eight days without a Security Guard Court for his trial being convened, a special report giving reasons for the delay shall be made by his Commander and a similar report shall be forwarded at intervals of every eight days until a Security Guard Court is convened or such person is released from custody.

Arrest by civil authorities.

58. Whenever any person subject to this Act, who is accused of an offence under this Act, is within the jurisdiction of any Magistrate or police officer, such Magistrate or police officer shall aid in the apprehension and delivery to Security Guard custody of such person upon receipt of a written application to that effect signed by his Commander or an officer authorised by the Commander in that behalf.

Capture of deserters.

59. (*1*) Whenever any person subject to this Act deserts, the Commander of the unit to which he belongs, shall give information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a Magistrate, and shall deliver the deserter, when apprehended, into Security Guard custody.

(2) Any police officer may arrest without warrant any person reasonably believed to be subject to this Act, and to be a deserter and shall bring him without delay before the nearest Magistrate, to be dealt with according to law.

Inquiry into absence without leave.

60. (1) When any person subject to this Act has been absent from duty without due authority for a period of thirty days, a Court of inquiry shall, as soon as practicable, be appointed by an officer not below the rank of a Group Commander under whose command he is for the time being serving and such Court shall, on oath or affirmation administered in the prescribed manner, inquire respecting the absence of the person, and the deficiency, if any, in the property of the Government entrusted to his care, or in any arms, ammunition, equipment, instruments, clothing or necessaries; and if satisfied of the fact of such absence without due authority or other sufficient cause, the Court shall declare such absence and the period thereof and the said deficiency, if any, and transmit the proceedings of the Court of inquiry to the officer who appointed the court of inquiry, for further action.

(2) If the person declared absent does not afterwards surrender or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.

CHAPTER VI

SECURITY GUARD COURTS

Kinds of Security Guard Courts.

61. For the purposes of this Act there shall be three kinds of Security Guard Courts, that is to say,—

(a) General Security Guard Courts;

(b) Petty Security Guard Courts; and

(c) Summary Security Guard Courts.

Power to convene a General Security Guard Court.

62. A General Security Guard Court may be convened by the Central Government or the Director-General or by any officer empowered in this behalf by warrant of the Director-General.

Power to convene a Petty Security Guard Court.

63. A Petty Security Guard Court may be convened by an officer having power to convene a General Security Guard Court or by an officer empowered in this behalf by warrant of any such officer.

Contents of warrants issued under sections 62 and 63.

64. A warrant, issued under section 62 or section 63 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

Composition of General Security Guard Court.

65. A General Security Guard Court shall consist of not less than five officers.

Composition of a Petty Security Guard Court.

66. A Petty Security Guard Court shall consist of not less than three officers.

Summary Security Guard Court.

67. (*1*) A Summary Security Guard Court may be held by the Commander of any unit of the Security Guard and he alone shall constitute the Court.

(*2*) The proceedings shall be attended throughout by two other persons who shall be officers or Assistant Commanders or one of either, and who shall not as such, be sworn or affirmed:

Provided that the persons attending the Court for the trial of an officer shall not be of a rank lower than the rank of that officer unless in the opinion of the convening officer recorded in the convening order, officers of such rank are not, having due regard to the exigencies of public service, available.

Dissolution of a Security Guard Court.

68. (*1*) If a Security Guard Court after the commencement of a trial is reduced below the minimum number of officers required by this Act, it shall be dissolved.

(*2*) If, on account of the illness of the concerned Judge Attorney or, as the case may be, Deputy Judge Attorney-General or Additional Judge Attorney-General or of the accused before the finding, it is impossible to continue the trial, a Security Guard Court shall be dissolved.

(*3*) The authority or officer who convened a Security Guard Court may dissolve the same if it appears to it or him that the exigencies of the service or necessities of discipline render it impossible or inexpedient to continue the said Security Guard Court.

(*4*) Where a Security Guard Court is dissolved under this section the accused may be tried again.

Powers of a General Security Guard Court.

69. A General Security Guard Court shall have the power to try any person subject to this Act for any offence punishable thereunder and to pass any sentence authorised thereby.

Powers of a Petty Security Guard Court.

70. A Petty Security Guard Court shall have the power to try any person subject to this Act other than an officer or an Assistant Commander for any offence made punishable thereunder and to pass any sentence authorised by this Act other than a sentence of death, or imprisonment for a term exceeding two years.

Powers of a Summary Security Guard Court.

71. (*1*) Subject to the provisions of sub-section (*2*), a Summary Security Guard Court may try any offence punishable under this Act.

(*2*) When there is no grave reason for immediate action and reference can, without detriment to discipline, be made to the officer empowered to convene a Petty Security Force Court for the trial of the alleged offender an officer holding a Summary Security Guard Court shall not try without

such reference any offence punishable under any of the sections 15, 17 and 45, or any offence against the officer holding the Court.

(3) A Summary Security Guard Court may try any person subject to this Act and under the command of the officer holding the Court, except an officer, or an Assistant Commander.

(4) A Summary Security Guard Court may pass any sentence which may be passed under this Act, except the sentence of death or of imprisonment for a term exceeding the limit specified in sub-section (5).

(5) The limit referred to in sub-section (4) shall be,—

(a) one year, if the officer holding the Security Guard Court holds the rank not below that of a Group Commander.

(b) three months, in any other case.

Prohibition of second trial.

72. (1) When any person subject to this Act has been acquitted or convicted of an offence by a Security Guard Court or by a Criminal Court or has been dealt with under section 51 or section 53 or section 54, he shall not be awarded to any person who is of the rank of Ranger Grade-I Guard Court or dealt with under the said sections.

(2) When any person subject to this Act, has been acquitted or convicted of an offence by a Security Guard Court or has been dealt with under section 51 or section 53 or section 54, he shall not be liable to be tried again by a Criminal Court for the same offence or on the same facts.

Period of limitation for trial.

73. (1) Except as provided by sub-section (2), no trial by a Security Guard Court of any person subject to this Act for any offence shall be commenced after the expiration of a period of three years from the date of such offence.

(2) The provisions of sub-section (1) shall not apply to a trial for an offence of desertion or for any of the offences mentioned in section 17.

(3) In the computation of the period of time mentioned in sub-section (1), any time spent by such person in evading arrest after the commission of the offence, shall be excluded.

Trial, etc., of offender who ceases to be subject to this Act.

74. (1) Where an offence under this Act had been committed by any person while subject to this Act, and he has ceased to be so subject, he may be taken into and kept in Security Guard custody and tried and punished for such offence as if he continued to be so subject.

(2) No such person shall be tried for an offence, unless his trial commences within six months after he had ceased to be subject to this Act:

Provided that nothing contained in this sub-section shall apply to the trial of any such person for an offence of desertion or for any of the offences mentioned in section 17 or shall affect the jurisdiction of a criminal court to try any offence triable by such Court as well as by a Security Guard Court.

Application of Act during term of sentence.

75. (1) When a person subject to this Act is sentenced by a Security Guard Court to imprisonment, this Act shall apply to him during the term of his sentence, though he is dismissed from the Security Guard, or has otherwise ceased to be subject to this Act, and he may be kept, removed, imprisoned and punished as if he continued to be subject to this Act.

(2) When a person subject to this Act is sentenced by a Security Guard Court to death, this Act shall apply to him till the sentence is carried out.

Place of trial.

76. Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever.

Choice between Criminal Court and Security Guard Court.

77. When a Criminal Court and a Security Guard Court have each jurisdiction in respect of an offence, it shall be in the discretion of the Director-General, or the Inspector-General or the Deputy Inspector-General, within whose command the accused person is serving or such other officer as may be prescribed, to decide before which Court the proceedings shall be instituted, and, if that officer decides that they shall be instituted before a Security Guard Court, to direct that the accused person shall be detained in Security Guard custody.

Power of criminal court to require delivery of offender.

78. (1) When a Criminal Court having jurisdiction is of the opinion that proceedings shall be instituted before itself in respect of any alleged offence, it may, by written notice, require the officer referred to in section 77 at his option, either to deliver over the offender to the nearest Magistrate to be proceeded against according to law, or to postpone proceedings, pending a reference to the Central Government.

(2) In every such case, the said officer shall either deliver over the offender in compliance with the requisition, or shall forthwith refer the question as to the Court before which the proceedings are to be instituted, for the determination of the Central Government whose order upon such reference shall be final.

CHAPTER VII

PROCEDURE OF SECURITY GUARD COURTS

Presiding officer.

79. At every General Security Guard Court or Petty Security Guard Court, the senior member shall be the presiding officer.

Judge Attorneys, etc.

80. Every General Security Guard Court shall, and every Petty Security Guard Court may, be attended by a Judge Attorney or a Deputy Judge Attorney-General or an Additional Judge Attorney-General, or, if no such officer is available, an officer approved by the Judge Attorney-General or by any officer authorised in this behalf by the Judge Attorney-General.

Challenges

81. (1) At all trials by a General Security Guard Court or by a Petty Security Guard Court, as soon as the Court is assembled, the names of the presiding officer and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the Court.

(2) If the accused objects to such officer, his objection and also the reply thereto of the officer objected to shall be heard and recorded, and the remaining officers of the Court shall, in the absence of the challenged officer, decide on the objection.

(3) If the objection is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the pres-

cribed manner, by another officer subject to the same right of the accused to object.

(4) When no challenge is made, or when a challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the Court shall proceed with the trial.

Oaths of members, Judge Attorney and witness.

82. (1) An oath or affirmation in the prescribed manner shall be administered to every member of every Security Guard Court and to the Judge Attorney, or, as the case may be, the Deputy Judge Attorney-General or the Additional Judge Attorney-General or the officer approved under section 80, before the commencement of the trial.

(2) Every person giving evidence before a Security Guard Court shall be examined after being duly sworn or affirmed in the prescribed form.

(3) The provisions of sub-section (2) shall not apply where the witness is a child under twelve years of age and the Security Guard Court is of the opinion that though the witness understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation.

Voting by members.

83. (1) Subject to the provisions of sub-sections (2) and (3), every decision of a Security Guard Court shall be passed by an absolute majority of votes; and where there is an equality of votes on either the finding or the sentence, the decision shall be in favour of the accused.

(2) No sentence of death shall be passed by a General Security Guard Court without the concurrence of at least two-thirds of the members of the Court.

(3) In matters, other than a challenge or the finding or sentence, the presiding officer shall have a casting vote.

General rule as to evidence.

1 of 1872.

84. The Indian Evidence Act, 1872, shall, subject to the provisions of this Act, apply to all proceedings before a Security Guard Court.

Judicial notice.

85. A Security Guard Court may take judicial notice of any matter within the general knowledge of the members as officers of the Security Guard.

Summoning witnesses.

86. (1) The convening officer, the presiding officer of a Security Guard Court, the Judge Attorney or, as the case may be, the Deputy Judge Attorney-General or the Additional Judge Attorney-General or the officer approved under section 80 or the Commander of the accused person may, by summons under his hand, require the attendance, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(2) In the case of a witness who is subject to this Act, the summons shall be sent to his Commander and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be, or resides, and such

Magistrate shall give effect to the summons as if the witness was required in the Court of such a Magistrate.

(4) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with reasonable precision.

Documents exempted from production.

87. (1) Nothing in section 86 shall be deemed to effect the operation of sections 123 and 124 of the Indian Evidence Act, 1872 or to apply to any letter, postcard, telegram or other document in the custody of the postal or telegraph authorities.

(2) If any document in such custody is, in the opinion of any District Magistrate, Chief Judicial Magistrate, Court of Session or High Court wanted for the purpose of any Security Guard Court, such Magistrate or Court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate or Court may direct.

(3) If any such document is, in the opinion of any other Magistrate or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause such search to be made for, and to detain such document pending the order of any such District Magistrate, Chief Judicial Magistrate, Court of Session or High Court.

Commissions for examination of witnesses.

88. (1) Whenever, in the course of a trial by a Security Guard Court, it appears to the Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such Court may address the Judge Attorney-General in order that a commission to take the evidence of such witness may be issued.

(2) The Judge Attorney-General may then, if he thinks necessary, issue a commission to any Chief Judicial Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(3) The Magistrate or officer to whom the commission is issued, or, if he is the Chief Judicial Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is, or shall summon the witness before him and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in the trials of warrant-cases under the Code of Criminal Procedure, 1973. 2 of 1974.

(4) When the witness resides in a tribal area or in any place outside India, the commission may be issued in the manner specified in Chapter XXIII-B of the Code of Criminal Procedure, 1973. 2 of 1974.

Examination of witness on commission.

89. (1) The prosecutor and accused person in any case in which a commission is issued under section 88 may respectively forward any interrogatories in writing which the Court may think relevant to the issue, and the Magistrate or officer executing the commission shall examine the witness upon such interrogatories.

(2) The prosecutor and the accused person may appear before such Magistrate or officer by counsel, or, except in the case of an accused per-

son in custody, in person, and may examine, cross-examine and re-examine, as the case may be, the said witness.

(3) After a commission issued under section 88 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Judge, Attorney-General.

(4) On receipt of a commission, and deposition returned under sub-section (3), the Judge, Attorney-General shall forward the same to the Court at whose instance the commission was issued or, if such Court has been dissolved, to any other Court convened for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to inspection by the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused and shall form part of the proceedings of the Court.

(5) In every case in which a commission is issued under section 88, the trial may be adjourned for specified time reasonably sufficient for the execution and return of the commission.

Conviction of offence not charged.

90. A person charged before a Security Guard Court,—

(*a*) with desertion may be found guilty of attempting to desert or of being absent without leave;

(*b*) with attempting to desert may be found guilty of being absent without leave;

(*c*) with using criminal force may be found guilty of assault;

(*d*) with using threatening language may be found guilty of using insubordinate language;

(*e*) with any one of the offences specified in clauses (*a*), (*b*), (*c*) and (*d*) of section 29 may be found guilty of any other of these offences with which he might have been charged;

(*f*) with an offence punishable under section 45 may be found guilty of any other offence of which he might have been found guilty, if the provision of the Code of Criminal Procedure, 1973, were applicable;

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(*g*) with any offence under this Act may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment;

(*h*) with any offence under this Act may be found guilty of having attempted or abetted the commission of that offence, although the attempt or abetment is not separately charged.

Presumption as to signatures.

91. In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the service of the Government shall, on production, be presumed to have been duly signed by the person by whom and in the character in which it purports to have been signed, until the contrary is shown.

Appointment paper.

92. (*1*) Any appointment paper purporting to be signed by an appointing authority shall, in proceedings under this Act, be evidence of the person appointed having given the answers to questions which he is therein represented as having given.

(*2*) The appointment of such person may be proved by the production of the original or a copy of his appointment paper purporting to be certified to be a true copy by the officer having the custody of the appointment paper.

Presumption as to certain documents.

93. (*1*) A letter, return or other document respecting the service of any person in, or the dismissal or discharge of any person from, any unit of the Security Guard, or respecting the circumstances of any person not having served in, or belonged to, any unit of the Security Guard, if purporting to be signed by or on behalf of the Central Government or the Director-General, or by any other competent authority, shall be evidence of the facts stated in such letter, return or other document.

(*2*) A National Security Guard List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers and Assistant Commanders therein mentioned, and of any appointment held by them and of the group, unit or branch of the Security Guard to which they belong.

(*3*) Where a record is made in any unit book in pursuance of this Act or of any rules or otherwise in the discharge of official duties, and purports to be signed by the Commander or by the officer whose duty it is to make such record, such record shall be evidence of the facts therein stated.

(*4*) A copy of any record in any unit book purporting to be certified to be a true copy by the officer having custody of such book shall be evidence of such record.

(*5*) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of any officer or other person subject to this Act, or any unit of the Security Guard, or has been apprehended by such officer or person, a certificate purporting to be signed by such officer, or by the Commander of the unit to which such person belongs, as the case may be, and stating the fact, date and place of such surrender or apprehension, and the manner in which he was dressed, shall be evidence of the matters so stated.

(*6*) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave and such person has surrendered himself into the custody of, or has been apprehended by, a police officer not below the rank of an officer in charge of a police station, a certificate purporting to be signed by such police officer and stating the fact, date and place of such surrender or apprehension and the manner in which he was dressed shall be evidence of the matters so stated.

(*7*) (*a*) Any document purporting to be a report under the hand of a Government scientific expert to whom this sub-section applies, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Act, may be used as evidence in any inquiry, trial or other proceeding under this Act.

(b) The Security Guard Court may, if it thinks fit, summon and examine any such expert as to the subject matter of his report.

(c) Where any such expert is summoned by a Security Guard Court and he is unable to attend personally, he may, unless the Court has expressly directed him to appear personally, depute any responsible person working with him to attend the Court if such officer is conversant with the facts of the case and can satisfactorily depose in the Court on his behalf.

(d) This sub-section applies to the Government scientific experts, for the time being specified in sub-section (4) of section 293 of the Code of Criminal Procedure, 1973. 2 of 1974.

Reference by accused to Government officer.

94. (1) If at any trial for desertion or absence without leave, overstaying leave or not rejoining when warned for service, the accused person states in his defence any sufficient or reasonable excuse for his unauthorised absence, and refers in support thereof to any officer in the service of the Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the Court shall address such officer and adjourn the proceedings until his reply is received.

(2) The written reply of any officer so referred to shall, if signed by him, be received in evidence and have the same effect as if made on oath before the Court.

(3) If the Court is dissolved before the receipt of such reply or if the Court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial.

Evidence of previous convictions and general character.

95. (1) When any person subject to this Act has been convicted by a Security Guard Court of any offence, such Security Guard Court may inquire into, and receive and record evidence of any previous convictions of such person, either by a Security Guard Court or by a Criminal Court, or any previous award of punishment under section 51 or section 53 or section 54 and may further inquire into and record the general character of such person and such other matters as may be prescribed.

(2) The evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, books of Security Guard Courts or other official records; and it shall not be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(3) At a Summary Security Guard Court, the officer holding the trial may, if he thinks fit, record any previous convictions against the offender, his general character, and such other matters as may be prescribed, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this section.

Lunacy of accused.

96. (1) Whenever, in the course of a trial by a Security Guard Court, it appears to the Court that the person charged is by reason of unsoundness of mind incapable of making his defence, or that he committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or knowing that it was wrong or contrary to law, the Court shall record a finding accordingly.

(2) The presiding officer of the Court, or, in the case of a Summary Security Guard Court, the officer holding the trial, shall forthwith report the case to the confirming officer, or to the authority empowered to deal with its finding under section 111, as the case may be.

(3) The confirming officer to whom the case is reported under sub-section (2) may, if he does not confirm the finding, take steps to have the accused person tried by the same or another Security Guard Court for the offence with which he was charged.

(4) The authority to whom the finding of a Summary Security Guard Court is reported under sub-section (2), and a confirming officer confirming the finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner and shall report the case for the orders of the Central Government.

(5) On receipt of a report under sub-section (4), the Central Government may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

Subsequent fitness of lunatic accused for trial.

97. Where any accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention under section 96, any officer prescribed in this behalf, may—

(a) if such person is in custody under sub-section (4) of section 96, on the report of a medical officer that he is capable of making his defence, or

(b) if such person is detained in a jail under sub-section (5) of section 96, on a certificate of the Inspector-General of Prisons, and if such person is detained in a lunatic asylum under the said sub-section, on a certificate of any two or more of the visitors of such asylum and if he is detained in any other place under that sub-section, on a certificate of the prescribed authority, that he is capable of making his defence,

take steps to have such person tried by the same or another Security Guard Court for the offence with which he was originally charged or, if the offence is a civil offence, by a Criminal Court.

Transmission to Central Government of ordres under Section 97.

98. A copy of every order made by an officer under section 97 for the trial of the accused shall forthwith be sent to the Central Government.

Release of lunatic accused

99. Where any person is in custody under sub-section (4) of section 96 or under detention under sub-section (5) of that section,—

(a) if such person is in custody under the said sub-section (4), on the report of a medical officer, or

(b) if such person is detained under the said sub-section (5), on a certificate from any of the authorities mentioned in clause (b) of section 97 that in the judgment of such officer or authority such person may be released without danger of his doing injury to himself or to any other person,

the Central Government may order that such person be released or detained in custody, or transferred to a public lunatic asylum if he has not already been sent to such an asylum.

Delivery of lunatic accused to relatives.

100. Where any relative or friend of any person who is in custody under sub-section (4) of section 96 or under detention under sub-section (5) of that section desires that he should be delivered to his care and custody, the Central Government may, upon application by such relative or friend and, on his giving security to the satisfaction of that Government that the person delivered shall be properly taken care of, and, prevented from doing injury to himself or to any other officer, and be produced for the inspection of such officer, and at such times and places, as the Central Government may direct, order such person to be delivered to such relative or friend.

Order for custody and disposal of property pending trial.

101. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a Security Guard Court during a trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Order for disposal of property regarding which offence is committed.

102. After the conclusion of a trial before any Security Guard Court, the Court or the officer confirming the finding or sentence of such Security Guard Court, or any authority superior to such officer, or, in the case of a Summary Security Guard Court whose finding or sentence does not require confirmation, an officer not below the rank of a Deputy Inspector-General within whose command the trial was held, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the Court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(2) Where any order has been made under sub-section (1) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within India or not, be sent to a Magistrate within whose jurisdiction such property for the time being is situated, and such Magistrate shall thereupon cause the order to be carried into effect as if it were an order passed by him under the provisions of the Code of Criminal Procedure, 1973.

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(3) In this section, the term "property" includes in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any person, but also any property into or for which the same may have been converted or exchanged and anything acquired by such conversion or exchange whether immediately or otherwise.

Powers of Security Guard Court in relation to proceedings under the Act.

103. Any trial by a Security Guard Court under the provisions of this Act shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Security Guard Court shall be deemed to be a Court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973.

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CHAPTER VIII

CONFIRMATION AND REVISION

Finding and sentence not valid, unless confirmed.

104. No finding or sentence of a General Security Guard Court or a Petty Security Guard Court shall be valid except so far as it may be confirmed as provided by this Act.

Power to confirm finding and sentence of General Security Guard Court.

105. The findings and sentences of General Security Guard Courts may be confirmed by the Central Government or by any officer empowered in this behalf by warrant of the Central Government.

Power to confirm finding and sentence of Petty Security Guard Court.

106. The findings and sentences of Petty Security Guard Courts may be confirmed by an authority or officer having power to convene a General Security Guard Court or by any officer empowered in this behalf by warrant of such authority or officer.

Limitation of powers of confirming authority.

107. A warrant issued under section 105 or section 106 may contain such restrictions, reservations or conditions as the authority issuing it may think fit.

Power of confirming authority to mitigate, remit or commute sentences.

108. Subject to such restrictions, reservations or conditions, as may be contained in any warrant issued under section 105 or section 106, a confirming authority may, when confirming the sentence of a Security Guard Court, mitigate or remit the punishment thereby awarded, or commute that punishment for any punishment or punishments lower in the scale laid down in section 47 or may set aside the proceedings of the trial if found to be illegal.

Revision of finding or sentence.

109. (1) Any finding or sentence of a Security Guard Court which requires confirmation may be once revised by the order of the confirming authority and on such revision, the Court, if so directed by the confirming authority, may take additional evidence.

(2) The Court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(3) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings and the Court shall proceed with the revision, provided that, if a General Security Guard Court, it still consists of five officers, or, if a Petty Security Guard Court, of three officers.

Finding and sentence of a Summary Security Guard Court.

110. The finding and sentence of a Summary Security Guard Court shall not require to be confirmed, but may be carried out forthwith.

Transmission of proceedings of Summary Security Guard Court.

111. The proceedings of every Summary Security Guard Court shall, without delay, be forwarded to the officer not below the rank of a Deputy Inspector-General within whose command the trial was held, or to the prescribed officer, and such officer, or the Director-General or any officer empowered by him in this behalf may, for reasons based on the merits of the case, but not on merely technical grounds, set aside the proceedings, or reduce the sentence to any other sentence which the Court might have passed.

Alteration of finding or sentence in certain cases.

112. (*1*) Where a finding of guilty by a Security Guard Court, which has been confirmed or which does not require confirmation, is found for any reason to be invalid or cannot be supported by the evidence, the authority which would have had power under section 124 to commute the punishment awarded by the sentence, if the finding had been valid, may substitute a new finding and pass a sentence for the offence specified or involved in such finding:

Provided that no such substitution shall be made unless such finding could have been validly made by the Security Guard Court on the charge and unless it appears that the Security Guard Court must have been satisfied of the facts establishing the said offence.

(*2*) Where a sentence passed by a Security Guard Court which has been confirmed, or which does not require confirmation, not being a sentence passed in pursuance of a new finding substituted under sub-section (*1*), is found for any reason to be invalid, the authority referred to in sub-section (*1*) may pass a valid sentence.

(*3*) The punishment awarded by a sentence passed under sub-section (*1*) or sub-section (*2*) shall not be higher in the scale of punishments than, or in excess of, the punishment awarded by, the sentence for which a new sentence is substituted under this section.

(*4*) Any finding substituted, or any sentence passed under this section shall, for the purposes of this Act and the rules, have effect as if it were a finding or sentence, as the case may be, of a Security Guard Court.

Remedy against order, finding or sentence of Security Guard Court.

113. (*1*) Any person subject to this Act who considers himself aggrieved by any order passed by any Security Guard Court may present a petition to the officer or authority empowered to confirm any finding or sentence of such Security Guard Court, and the confirming authority may take such steps as may be considered necessary to satisfy itself as to the correctness, legality or propriety of the order passed or as to the regularity of any proceeding to which the order relates.

(*2*) Any person subject to this Act who considers himself aggrieved by a finding or sentence of any Security Guard Court which has been confirmed, may present a petition to the Central Government, the Director-General, or any prescribed officer superior in command to the one who confirmed such finding or sentence, and the Central Government, the

Director-General, or the prescribed officer, as the case may be, may pass such order thereon as it or he thinks fit.

Annulment of proceedings.

114. The Central Government, the Director-General or an Inspector-General may annul the proceedings of any Security Guard Court on the ground that they are illegal or unjust.

CHAPTER IX

EXECUTION OF SENTENCES, PARDONS, REMISSIONS, ETC.

Form of sentence of death.

115. In awarding a sentence of death, a Security Guard Court shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

Commencement of sentence of imprisonment.

116. Whenever any person is sentenced by a Security Guard Court under this Act to imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the presiding officer, or in the case of a Summary Security Guard Court, by the Court:

Provided that the period of detention or confinement, if any undergone by an accused person, during the investigation, inquiry or trial of the case in which he is sentenced and before the date on which the original proceedings were signed shall be set-off against the term of his sentence and the liability of such person to undergo imprisonment shall be restricted to the remainder, if any of the term of his sentence.

Execution of sentence of imprisonment.

117. (*1*) Whenever any sentence of imprisonment is passed under this Act by a Security Guard Court or whenever any sentence of death is commuted to imprisonment, the confirming officer, or in case of a Summary Security Guard Court the officer holding the Court or such other officer as may be prescribed, shall, save as otherwise provided in sub-sections (3) and (4), direct that the sentence shall be carried out by confinement in a civil prison.

(*2*) When a direction has been made under sub-section (*1*), the Commander of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.

(*3*) In the case of a sentence of imprisonment for a period not exceeding three months and passed under this Act by a Security Guard Court, the appropriate officer under sub-section (*1*) may direct that the sentence shall be carried out by confinement in Security Guard custody instead of in a civil prison.

(*4*) On active duty, a sentence of imprisonment may be carried out by confinement in such place as the Deputy Inspector-General within whose command the person sentenced is serving or any prescribed officer, may, from time to time, appoint.

Temporary custody of offender.

118. Where a sentence of imprisonment is directed to be undergone in a civil prison the offender may be kept in Security Guard custody or in any other fit place, till such time as it is possible to send him to a civil prison.

Execution of sentence of imprisonment in special cases.

119. Whenever, in the opinion of an officer not below the rank of a Deputy Inspector-General within whose command the trial is held, any sentence or portion of a sentence of imprisonment cannot for special reasons, conveniently be carried out in Security Guard custody in accordance with the provisions of section 117, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

Conveyance of prisoner from place to place.

120. A person under sentence of imprisonment may, during his conveyance from place to place, or when on board a ship, aircraft, or otherwise, be subjected to such restraint as is necessary for his safe conduct and removal.

Communication of certain orders to prison officers.

121. Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil prison, a warrant in accordance with such order shall be forwarded by the officer making the order or his staff officer or such other person as may be prescribed, to the officer in charge of the prison in which such person is confined.

Execution of sentence of fine.

122. When a sentence of fine is imposed by a Security Guard Court under section 45, a copy of such sentence signed and certified by the confirming officer, or where no confirmation is required, by the officer holding the trial may be sent to any Magistrate in India, and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1973, as if it were a sentence of fine imposed by such Magistrate.

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Informality or error in the order or warrant.

123. Whenever any person is sentenced to imprisonment under this Act, and is undergoing the sentence in any place or manner in which he might be confined under a lawful order or warrant in pursuance of this Act, the confinement of such person shall not be deemed to be illegal only by reason of informality or error in, or as respects, the order, warrant or other document, or the authority by which, or in pursuance whereof such person was brought into, or, is confined in any such place, and any such order, warrant or document may be amended accordingly.

Pardon and remission.

124. When any person subject to this Act has been convicted by a Security Guard Court of any offence, the Central Government or the Director-General or, in the case of a sentence, which he could have confirmed or which did not require confirmation, an officer not below the rank of a Deputy Inspector-General within whose command such person at the time of conviction was serving, or the prescribed officer may,—

(*a*) either with or without conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded; or

(*b*) mitigate the punishment awarded; or

(c) commute such punishment for any less punishment or punishments mentioned in this Act; or

(d) either with or without conditions which the person sentenced accepts, release the person on parole.

Cancellation of conditional pardon, release on parole or remission.

125. (1) If any condition on which a person has been pardoned or released on parole or a punishment has been remitted is, in the opinion of the authority which granted the pardon, release or remission not fulfilled, such authority may cancel the pardon, release or remission, and thereupon the sentence of the Court shall be carried into effect as if such pardon, release or remission had not been granted.

(2) A person whose sentence of imprisonment is carried into effect under the provisions of sub-section (1) shall undergo only the unexpired portion of his sentence.

Suspension of sentence of imprisonment.

126. (1) Where a person subject to this Act is sentenced by a Security Guard Court to imprisonment, the Central Government, the Director-General or any officer empowered to convene a General Security Guard Court may suspend the sentence whether or not the offender has already been committed to prison or to Security Guard custody.

(2) The authority or officer specified in sub-section (1) may, in the case of an offender so sentenced, direct that until the orders of such authority or officer have been obtained the offender shall not be committed to prison or to Security Guard custody.

(3) The powers conferred by sub-sections (1) and (2) may be exercised in the case of any such sentence which has been confirmed, reduced or commuted.

Orders pending suspension.

127. (1) Where the sentence referred to in section 126 is imposed by a Security Guard Court, other than a Summary Security Guard Court, the confirming officer may, when confirming the sentence, direct that the offender be not committed to prison or to Security Guard custody until the orders of the authority or officer specified in section 126, have been obtained.

(2) Where a sentence of imprisonment is imposed by a Summary Security Guard Court, the officer holding the trial may make the direction referred to in sub-section (1).

Release on suspension.

128. Where a sentence is suspended under section 126, the offender shall forthwith be released from custody.

Computation of period of suspension.

129. Any period during which the sentence is under suspension shall be reckoned as part of the term of such sentence.

Order after suspension.

130. The authority or officer specified in section 126 may, at any time while a sentence is suspended, order—

(a) that the offender be committed to undergo the unexpired portion of the sentence; or

(b) that the sentence be remitted.

Reconsideration of case after suspension.

131. (*1*) Where a sentence has been suspended, the case may at any time, and shall at intervals of not more than four months, be reconsidered by the authority or officer specified in section 126, or by any officer not below the rank of a Deputy Inspector-General duly authorised by the authority or officer specified in section 126.

(*2*) Where on such reconsideration by the officer so authorised it appears to him that the conduct of the offender since his conviction has been such as to justify a remission of the sentence, he shall refer the matter to the authority or officer specified in section 126.

Fresh sentence after suspension.

132. Where an offender, while a sentence on him is suspended under this Act, is sentenced for any other offence, then—

(*a*) if the further sentence is also suspended under this Act, the two sentences shall run concurrently;

(*b*) if the further sentence is for a period of three months or more and is not suspended under this Act, the offender shall also be committed to prison or Security Guard custody for the unexpired portion of the previous sentence, but both sentences shall run concurrently; and

(*c*) if the further sentence is for a period of less than three months and is not suspended under this Act, the offender shall be so committed on that sentence only, and the previous sentence shall, subject to any order which may be passed under section 130 or section 131 continue to be suspended.

Scope of power of suspension.

133. The powers conferred by sections 126 and 130 shall be in addition to, and not in derogation of, the power of mitigation, remission and commutation.

Effect of suspension and remission on dismissal.

134. (*1*) Where in addition to any other sentence the punishment of dismissal has been awarded by a Security Guard Court, and such other sentence is suspended under section 126, then, such dismissal shall not take effect until so ordered by the authority or officer specified in section 126.

(*2*) If such other sentence is remitted under section 130, the punishment of dismissal shall also be remitted.

CHAPTER X

MISCELLANEOUS

Rank structure.

135. (*1*) The officers and other members of the Security Guard shall be classified in accordance with their ranks in the following categories, namely:—

(*a*) officers—

(*i*) Director-General.

(*ii*) Additional Director-General.

(*iii*) Inspector-General.

(*iv*) Deputy Inspector-General.

(*v*) Group Commander.

(*vi*) Squadron Commander.
(*vii*) Team Commander.

(*b*) Assistant Commanders—

(*viii*) Assistant Commander Grade I.
(*ix*) Assistant Commander Grade II.
(*x*) Assistant Commander Grade III.

(*c*) persons other than officers and Assistant Commanders—

(*xi*) Ranger Grade I.
(*xii*) Ranger Grade II.
(*xiii*) Combatised tradesmen.

(2) The matters relating to *inter se* seniority of persons belonging to the same rank shall be determined in accordance with such rules as may be prescribed.

(3) Notwithstanding anything contained in this Act, the Director-General may, subject to confirmation by the Central Government as provided hereinafter, grant to an officer or Assistant Commander Grade I a rank, mentioned in clause (*a*) of sub-section (*1*) as a local rank, whenever considered necessary by him in the interest of better functioning of the Security Guard.

(4) An officer or Assistant Commander Grade I holding a local rank,—

(*a*) shall exercise the command and be vested with the powers of an officer holding that rank;

(*b*) shall cease to hold that rank, if the grant of such rank is not confirmed within one month by the Central Government, or when so ordered by the Director-General or when he ceases to hold the appointment for which the rank was granted;

(*c*) shall not be entitled to claim any seniority over other officers by virtue of his having held such local rank; and

(*d*) shall not be entitled to any extra pay for holding such rank.

Deductions from pay and allowances.

136. (*1*) Subject to the provisions of sub-section (4), the following deductions may be made from the pay and allowances of an officer, that is to say,—

(*a*) all pay and allowances due to an officer for every day he absents himself without leave, unless a satisfactory explanation has been given and accepted by the Inspector-General under whom he is for the time being serving, and for every day of imprisonment awarded by a Criminal Court or a Security Guard Court;

(*b*) any sum required to make good the pay of any person subject to this Act which the officer has unlawfully retained or unlawfully refused to pay;

(*c*) any sum required to be paid as fine imposed by a Criminal Court;

(*d*) any sum required to make up any loss, damage or destruction of public property or property belonging to the Security Guard which, after due investigation, appears to the Inspector-General under whom the officer is for the time being serving, to have been occasioned by wrongful act or negligence on the part of the officer;

(e) any sum required by an order of the Central Government to be paid for the maintenance of his wife or his legitimate or illegitimate child or step-child or towards the cost of any relief given by the said Government to the said wife or child.

(2) Subject to the provisions of sub-section (4), the following deductions may be made from the pay and allowances of a person subject to this Act, other than an officer, that is to say,—

(a) all pay and allowances due to him for every day of absence either on desertion or without leave unless a satisfactory explanation has been given and accepted by his Commander and for every day of imprisonment awarded by a Criminal Court, a Security Guard Court or an officer exercising authority under section 51;

(b) any sum required to make good the pay of any person subject to this Act which he has unlawfully retained or unlawfully refused to pay;

(c) any sum required to make good such compensation for any expenses, loss, damage or destruction caused by him to the Central Government or to any building or property or any private fund of the Security Guard as may be awarded by his Commander;

(d) any sum required to be paid as fine imposed by a Criminal Court;

(e) any sum required by an order of the Central Government to be paid for the maintenance of his wife or his legitimate or illegitimate child or step-child or towards the cost of any relief given by the said Government to the said wife or child.

(3) (i) No person shall be treated as absent or under imprisonment for a day unless the absence or imprisonment has lasted, whether wholly in one day or partly in one day and partly in another, for six consecutive hours or upwards.

(ii) Any absence or imprisonment for less than a day may be reckoned as absence or imprisonment for a day if such absence or imprisonment prevented the absentee from fulfilling any duty as a member of the Security Guard which was thereby thrown upon some other member.

(4) The total deductions from the pay and allowances of a person made under clauses (b) to (e) of sub-section (1) or clauses (b) to (e) of sub-section (2) shall not, except where he is sentenced to dismissal, exceed in any one month, one-half of his pay and allowances for that month.

(5) Any sum authorised by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

(6) The following shall be the authorities competent to order deductions from pay and allowances under this Act, namely:—

(a) Commanders not below the rank of Group Commanders in the case of persons other than officers;

(b) Inspector-General, in the case of officers.

(7) Any authority superior to the one ordering any deduction under this Act shall be competent to remit the whole or part of the said deduction.

(8) Any power conferred by the provisions of this section on an officer may be exercised by an officer or authority superior in command to the first mentioned officer.

Powers and duties conferable and imposable on members of the Security Guard.

137. (1) The Central Government may, by general or special order published in the Official Gazette, direct that, subject to such conditions and limitations as may be specified in the order, any member of the Security Guard may exercise or discharge such of the powers or duties under any Central Act as may be specified in the said order, being the powers and duties which, in the opinion of the Central Government, an officer of the corresponding or lower rank is by such Central Act empowered to exercise or discharge for the said purposes.

(2) The Central Government may, by general or special order published in the Official Gazette, confer or impose, with the concurrence of the State Government concerned, any of the powers or duties which may be exercised or discharged under a State Act by a police officer upon a member of the Security Guard who, in the opinion of the Central Government, holds a corresponding or higher rank.

(3) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

Protection for acts of members of the Security Guard.

138. (1) In any suit or proceeding against any member of the Security Guard for any act done by him in pursuance of a warrant or order of a competent authority, it shall be lawful for him to plead that such act was done by him under the authority of such warrant or order.

(2) Any such plea may be proved by the production of the warrant or order directing the act, and if it is so proved the member of the Security Guard shall thereupon be discharged from liability in respect of the act so done by him, notwithstanding any defect in the jurisdiction of the authority which issued such warrant or order.

(3) Notwithstanding anything contained in any other law for the time being in force, any legal proceeding (whether civil or criminal) which may lawfully be brought against any member of the Security Guard for anything done or intended to be done under the powers conferred by, or in pursuance of, any provision of this Act or the rules, shall be commenced within three months after the act complained of was committed and not otherwise, and notice in writing of such proceeding and of the cause thereof shall be given to the defendant or his superior officer at least one month before the commencement of such proceeding.

Power to make rules.

189. (*1*) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner in which the Security Guard shall be constituted and the conditions of service of its members under sub-section (*1*) of section 4;

(*b*) the nature of the book or letter or other document, the communication or publication whereof would not be restricted by sub-section (*1*) of section 12;

(*c*) the purposes other than political purposes for which a person subject to the Act shall not participate in, or address, any meeting or demonstration under sub-section (*2*) of section 12;

(*d*) the purposes for which the forfeiture of service as a punishment may be inflicted under sub-section (*1*) of section 47;

(*e*) the manner in which officers may be proceeded against under section 53 and sub-sections (*1*) and (*2*) of section 54;

(*f*) the manner in which and the period for which any person subject to this Act may be taken into and detained in Security Guard custody pending his trial under sub-section (*4*) of section 56;

(*g*) the manner in which a Court of inquiry enquiring into the absence of person, shall administer oath or affirmation under sub-section (*1*) of section 60;

(*h*) the manner in which a vacancy may be filled in on the retirement of a member of General Security Guard Court or a Petty Security Guard Court under sub-section (*3*) of section 81;

(*i*) the manner in which oath or affirmation shall be administered to the members of the Security Guard Courts and the Judge Attorney, etc., under sub-section (*1*) of section 82;

(*j*) the manner in which a person giving evidence before a Security Guard Court shall be sworn or affirmed in under sub-section (*2*) of section 82;

(*k*) the manner in which a Security Guard Court when convicting a person may inquire into under sub-section (*1*) of section 95;

(*l*) the manner in which an accused person shall be kept in custody under sub-section (4) of section 96;

(*m*) the form of the warrant which shall be forwarded to the officer in charge of the prison in which a person under sentence of imprisonment is to be conferred under sub-section (*2*) of section 117;

(*n*) the person who shall forward the warrant for the confinement of a person in a civil prison under section 121;

(*o*) the matters relating to *inter se* seniority of persons belonging to the same rank under sub-section (*2*) of section 135;

(*p*) the authorities or officers to be prescribed under section 7, sub-section (*2*) of section 10, sub-section (*1*) of section 12, section 77,

section 97, section 111, sub-section (2) of section 113, sub-sections (1), (2) and (4) of section 117 and section 124;

(q) any other matter which is to be, or may be prescribed or in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Central Government, necessary for the proper implementation of this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Provisions as to existing National Security Guard.

140. (1) The National Security Guard in existence at the commencement of this Act shall be deemed to be the Security Guard constituted under this Act.

(2) The members of the National Security Guard in existence at the commencement of this Act shall be deemed to have been appointed as such under this Act.

(3) Anything done or any action taken before the commencement of this Act in relation to the constitution of the National Security Guard referred to in sub-section (1), in relation to any person appointed, shall be as valid and as effective in law as if such thing or action was done or taken under this Act:

Provided that nothing in this sub-section shall render any person guilty of any offence in respect of anything done or omitted to be done by him before the commencement of this Act.

STATEMENT OF OBJECTS AND REASONS

For quite sometime past, terrorism has been steadily assuming menacing proportions in the country. These elements have been indulging in wanton killings, arson, looting and other heinous crimes such as hijacking, mass murders, etc., with the object to overawe the Government to terrorise, create fear and panic in the minds of citizens and to disrupt communal peace and harmony. With a view to effectively combating such terrorist activities in different States and to protect the States against internal disturbances, the Central Government decided to raise a special armed force. Consequently, the National Security Guard was raised in the middle of 1984 when the Directorate-General of National Security Guard was set up under the command of a senior police officer designated as the Director-General of the National Security Guard.

2. The National Security Guard shall serve as a contingency deployment force to deal with terrorist activities in various States. However, considering the nature and purpose of the force and the experience gained during the last two years, it has been felt that the force should be regulated by a self-contained statute which will provide for its special needs more particularly in matters of discipline.

3. While taking care that the National Security Guard does not lose its character as an armed force of the Union charged with combating terrorist activities within the country, the Bill seeks to ensure that highest standards of efficiency and discipline are maintained in this Force. Accordingly, the drafting the present Bill, the provision of the Army Act, 1950 and the Border Security Force Act, 1968 have been borne in mind.

4. The Bill provides for the constitution of the National Security Guard and for deeming the existing National Security Guard as the force constituted thereunder. It provides for the conditions of service of the members of the force. In particular, pursuant to article 33 of the Constitution, provisions have been inserted in the Bill to restrict or abrogate the application of some of the fundamental rights to the members of the force in so far as this is necessary for the maintenance of discipline. The Bill sets out the offences for which the members of the force may be tried. It provides for the constitution of Security Guard Courts for the trial of such offences. It specifies the procedure which would be followed by the Security Guard Courts and makes applicable the provisions of the Indian Evidence Act, 1872 to the proceedings of the said Courts.

The Bill seeks to achieve the above objects.

BUTA SINGH.

NEW DELHI:
The 4th July, 1986.

Notes on Clauses

Clause 2.—This clause defines the various expressions used in the Bill. Sub-clause (1) (a) of this clause defines 'active duty'. Broadly speaking according to this definition a member of the Security Guard will be on active duty during the period he is attached to or forms part of a unit of the Security Guard which is engaged in operation against terrorist or any person in arms against the Union or which is operating at a picket or engaged on patrol or any other duty in relation to combating terrorist activity.

Certain offences such as under clauses 16, 20 and 21 are punishable more severely when committed on active duty. The definition is modelled on the definition of 'active service' in the Army Act, 1950.

The definitions of "civil offence", "civil prison", "criminal code" and "offence", are based on the definitions of these expressions in the Army Act, 1950.

Sub-clause (1) (y) defines the word 'terrorist'. The definition is similar to the one given in the Terrorist and Disruptive Activities (Prevention) Act, 1985.

Clause 3.—This clause specifies the persons subject to the proposed legislation.

Clause 4.- This clause provides for the constitution of the National Security Guard. It has to be read with clause 140 which deals with the existing National Security Guard.

Clause 5.—This clause provides for the general superintendence, direction and control of the Security Guard and appointment of officers of the Security Guard.

Clause 6.—This clause provides for liability of members of the Security Guard for service in and outside India.

Clause 7.—This clause deals with the resignation and withdrawal from the post by any member of the Security Guard.

Clause 8 to 11. These clauses deal with the tenure of service, etc., of members of the Security Guard.

Clause 12.—This clause seeks to impose certain restrictions on the rights of the members of the Security Guard to form associations, freedom of speech, etc.

Clause 13 *and* 14.—These clauses provide for remedy of aggrieved persons including officers.

Clauses 15 *to* 44.—These clauses seek to constitute offences under the proposed legislation and penalise the members of the Security Guard for the various acts prejudicial to the maintenance of discipline; good order and efficiency of the Security Guard. These clauses follow, subject to certain modifications, the provisions relating to offences contained in sections 34 to 68 of the Army Act, 1950. The modifications

relate, apart from the non-inclusion of provisions peculiar to the Army, to reduction in the punishment for certain offences.

Clauses 45 *and* 46.—These two clauses lay down that all civil offences committed by the members of the Security Guard within or beyond India shall be deemed to be the offences under the proposed legislation and shall be triable by Security Guard Court. Exception under section 46 has, however, been made in respect of the civil offences of murder, culpable homicide not amounting to murder and rape in relation to civilians where such offences are committed by the members of the Security Guard while not on active duty.

Clause 47.—This clause sets out the various punishments which may be awarded by Security Guard Courts

Clause 48.—This clause enables a Security Guard Court to take into account the nature and degree of the offence committed and award to the person convicted of any offence under clauses 15 to 44 the punishment prescribed by the relevant provision or punishment lower in the scale within the meaning of clause 47.

Clause 49.—This clause specifies the punishments which may be awarded in combination by a Security Guard Court.

Clause 50.—This clause permits infliction of minor punishments without the intervention of a Security Guard Court.

Clauses 51 *to* 54.—Clause 51 seeks to authorise a Commander of and above the rank of Group Commander to proceed in the prescribed manner against any person other than an officer or an Assistant Commander and award one or more punishments specified in the clause. Clause 52 imposes certain limitations in respect of award of these punishments. Clause 53 authorises an officer not below the rank of Inspector-General to proceed in the prescribed manner against an officer of or below the rank of Squadron Commander and award one or more punishments specified in the clause. Clause 54 provides for punishment of persons of the rank of an Assistant Commander by officers not below the rank of Group Commander.

Clauses 55 *to* 60.—These clauses deal with arrest and proceedings before trial. Clause 55 provides that any person charged with an offence under the proposed legislation may be taken into Security Guard custody under the orders of any superior officer but an officer who is engaged in a quarrel, affray or disorder may be ordered into Security Guard custody even by an officer inferior in rank. Clause 56 provides for the duty of Commander in regard to detention. The charge against any person taken into Security Guard custody must be investigated within forty-eight hours unless investigation within that period seems to be impracticable having regard to the public service. In case of delay the matter has to be reported to superior authorities. Clause 57 provides that in every case where any person who is not on active duty remains in Security Guard custody for a longer period than eight days without a Security Guard Court for his trial being convened, special report giving reasons for the delay shall be made by his Commander and a similar report shall be forwarded at intervals of every eight days until a Security Guard Court is convened or such person is released from custody. Clauses 58 and 59 provide for assistance by Magistrates, police officers and other

civil authorities in the matter of apprehension and arrest of persons accused of offences under the legislation and deserters from the Security Guard. Clause 60 provides for enquiry into absence of a person subject to the legislation without leave.

Clause 61.—This clause provides for three kinds of Security Guard Courts, namely, General Security Guard Courts, Petty Security Guard Courts, and Summary Security Guard Courts, for the trial of offences under the proposed legislation. The provisions in the Bill relating to these Courts are based, subject to some modifications, on the provisions of the Army Act, 1950 relating to Courts Martial. The important modification is that while the Army Act provides for four kinds of Courts Martial, the Bill provides for only three kinds of Security Guard Courts.

Clauses 62 *to* 71.—These clauses deal with convening, composition and dissolution of Security Guard Courts and their powers.

Clause 72.—This clause provides that a person subject to the proposed legislation who has been acquitted or convicted of an offence by a Security Guard Court or a criminal court or has been dealt with under clause 51 or clause 53 (relating to imposition of minor punishment by certain officers) shall not be liable to be tried again by a Security Guard Court and dealt with under the said clauses. It thus prohibits second trial in respect of the same offence under this legislation.

Clause 73.—This clause prescribes three years' period of limitation for trial of offences under the Act except the offence of desertion and any of the offences mentioned in clause 17.

Clause 74.—This clause deals with the liability of a person who has ceased to be subject to the legislation after the commission of an offence thereunder.

Clause 75.—This clause provides for the continued application of the proposed legislation during the term of sentence.

Clause 76.—This clause deals with the place of trial.

Clauses 77 *and* 78.—These clauses deal with choice of forum for the trial of an offence in respect of which both a Seurity Guard Court and an ordinary criminal court has concurrent jurisdiction.

Clauses 79 *to* 103.—These clauses deal with procedure of Security Guard Courts and are based upon section 128 to section 152 of the Army Act, 1950 which deal with procedure of Courts Martial. In particular, clause 84 seeks to apply the provisions of the Indian Evidence Act, 1872 to all proceedings before a Security Guard Court.

Clauses 104 *to* 114.—These clauses deal with confirmation and revision of findings and sentence of Security Guard Courts. These clauses follow closely the provisions contained in sections 153 to 165 of the Army Act, 1950 in regard to confirmation and revision of sentences of Courts Martial.

Clauses 115 *to* 134.—These clauses deal with execution of sentences of Security Guard Courts, pardon of persons convicted by such courts, remissions of such sentences, etc. These clauses follow corresponding provisions contained in sections 166 to 190 of the Army Act, 1950.

Clause 135.—This clause provides for the rank classification of officers and other members of the Security Guard.

Clause 136.—This clause provides for the deductions that may be made from the pay and allowances of officers and other persons subject to the Act.

Clause 137.—Sub-clause (1) of this clause empowers the Central Government to direct exercise of such powers and discharge of such duties by members of the Security Guard as are exercisable or dischargeable by an officer of the corresponding or lower rank under any Central Act. Similarly sub-clause (2) of this clause empowers the Central Government to confer or impose, with the concurrence of the State Government, any powers or duties under any State Act upon the members of the Security Guard of corresponding rank.

Clause 138.—This clause provides for protection of acts of the members of Security Guard and it follows the provisions of section 17 of the Central Reserve Police Force Act, 1949.

Clause 139.—This clause deals with the powers of the Central Government to make rules.

Clause 140.—This clause provides that the existing National Security Guard shall be deemed to be the National Security Guard constituted under the proposed legislation and makes the necessary and saving provisions in regard to persons appointed to the existing National Security Guard and as to actions taken and things done in relation to the constitution of the existing National Security Guard.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the constitution of the National Security Guard. Clause 5 provides for appointment of certain officers of the Security Guard while clause 80 read with clause 2(1)(m) deals with appointment of Judge Attorney-General and other officers of his set-up.

2. The National Security Guard, which was raised for combating terrorist activities with a view to protect the States against internal disturbances will be deemed to have been constituted under the proposed legislation (*vide* clause 140).

3. All expenses incurred in connection with the administration of the Security Guard would be met from the Consolidated Fund of India. As the Security Guard has already been constituted, no additional expenditure of a non-recurring nature is likely to be involved when the Bill is enacted and brought into force. The recurring expenditure on the administration of the Security Guard during 1985-86 was of the order of Rs. 3,86,08,972.00.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 139 of the Bill empowers the Central Government to make rules for carrying out the provisions of the proposed legislation. The matters in respect of which rules may be made, *inter alia*, relate to the constitution, superintendence, command and discipline of the Security Guard; conditions of service of the members of the Security Guard (including deductions from pay and allowances); the rank, powers of command and authority of the officers and other members of the Security Guard; the matters required to be prescribed under clause 12 of the Bill; the manner of filling in of vacancies on the retirement of members of the Security Guard Courts; the procedure to be followed by such courts and other matters relating thereto.

2. The matters in respect of which rules may be made under clause 139 are essentially matters of detail or procedure and are merely ancillary to the proper implementation of the legislation. The delegation of legislative power is thus of a normal character.

BILL No. 94 OF 1986

A Bill further to amend the High Court Judges (Conditions of Service) Act, 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1986.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

CHAPTER II

AMENDMENT OF THE HIGH COURT JUDGES (CONDITIONS OF SERVICE) ACT, 1954

Amendment of section 4.

2 In section 4 of the High Court Judges (Conditions of Service) Act, 1954 (hereafter in this Chapter referred to as the High Court Judges Act), in sub-section (2), in clause (*a*),— 28 of 1954.

(*a*) in sub-clause (*i*), the word "and" occurring at the end shall be omitted;

(*b*) after sub-clause (*ii*), the following sub-clause shall be inserted namely:—

"(*iii*) where the Judge had, prior to his appointment as such, held any pensionable post under the Union or a State, the period

of leave earned by him in the said post, so, however, that such period shall not exceed one hundred and eighty days in terms of leave on full allowances; and".

Amendment of section 17A.

3. In section 17A of the High Court Judges Act,—

(*a*) for sub-sections (*1*) and (*2*), the following sub-sections shall be substituted, namely:—

"(*1*) where a Judge who, being in service on or after the commencement of the High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1986, dies, whether before or after retirement in circumstances to which section 17 does not apply, family pension calculated at the rate of fifty per-cent. of the pension admissible to him on the date of his death shall be payable to the person or persons entitled thereto and the amount so payable shall be paid from the day following the date of death of the Judge for a period of seven years or for a period up to the date on which the Judge would have attained the age of sixty-five years, had he survived, whichever is earlier, and thereafter at the rate of half of the family pension so admissible.

Explanation.—For the purposes of determining the person or persons entitled to family pension under this sub-section,—

(*i*) in relation to a Judge who elects or is eligible to receive pension under Part I of the First Schedule, the rules, notifications and orders for the time being in force with regard to the person or persons entitled to family pension in relation to an officer of the Central Civil Services, Group 'A', shall apply;

(*ii*) in relation to a Judge who elects to receive pension under Part II or Part III of the First Schedule, the ordinary rules of his service if he had not been appointed a Judge with respect to the person or persons entitled to family pension shall apply and his service as a Judge being treated as service therein.

(*2*) where any Judge, who has elected to receive the pension payable to him under Part II or Part III of the First Schedule, retires, or dies in circumstances to which section 17 does not apply, gratuity, if any, shall be payable to the person or persons entitled thereto under the ordinary rules of his service if he had not been appointed a Judge, his service as a Judge being treated as service therein for the purpose of calculating that gratuity.";

(*b*) in sub-section (*3*), in clause (*iii*), for the words "thirty thousand rupees", the words "fifty thousand rupees" shall be substituted;

(*c*) in the *Explanation*, for the words, brackets and figures "sub-sections (*2*) and (*3*)", the word, brackets and figure "sub-section (*3*)" shall be substituted.

Insertion of new section 20A.

4. After section 20 of the High Court Judges Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 5th day of September, 1977, namely:—

Deposit Linked Insurance Scheme.

"20A. The Deposit Linked Insurance Scheme for the time being in force under the General Provident Fund (Central Services) Rules, 1960, shall apply to every Judge whether he subscribes to the General Provident Fund (Central Services) or any other Provident Fund referred to in section 20.".

Substitution of new sections for sections 22B and 22C.

5. In the High Court Judges Act, for sections 22B and 22C, the following sections shall be substituted, namely:—

Conveyance facilities.

"22B. Every Judge shall be entitled to a staff car and one hundred and fifty litres of petrol every month or the actual consumption of petrol per month, whichever is less.

Sumptuary allowance.

22C. The Chief Justice and each of the other Judges of every High Court shall be entitled to a sumptuary allowance of five hundred rupees per month, respectively. rupees per month, respectively.".

Amendment of the First Schedule.

6. In the First Schedule to the High Court Judges Act,—

(*a*) in Part I, after paragraph 10, the following paragraph shall be inserted, namely:—

'11. In the case of a Judge to whom this Part applies and who has retired on or after the commencement of the High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1986 the foregoing provisions of this Part shall have effect subject to the modifications that—

(*i*) for paragraph 2, the following paragraph shall be substituted, namely:—

"2. Subject to the other provisions of this Part, the pension payable to a Judge to whom this Part applies and who has completed not less than seven years of service for pension shall be—

(a) for service as Chief Justice in any High Court, Rs. 4,500 per annum for each completed year of service:,

Provided that the pension shall in no case exceed Rs. 54,000 per annum in the case of a Chief Justice and Rs. 48,000 per annum in the case of any other Judge.";

(*ii*) paragraphs 3 to 5 shall be omitted;

(*iii*) in paragraph 6, for the word and figure "paragraph 5", the word and figure "paragraph 2" shall be substituted;

(*iv*) for paragraph 8, the following paragraph shall be substituted, namely:—

"8. **Notwithstanding anything contained in the foregoing provisions of this Part, the pension payable to a Judge who has completed fourteen years of service for pension, including not less than six years of service as Chief Justice of one or more of the High Courts, shall be Rs. 5,000 per annum.**";

(v) **in paragraph 9, for the figures "6,000", the figures** "15,750" shall be substituted;

(*vi*) paragraph 10 shall be omitted.';

(*b*) in Part III, after paragraph 3, the following paragraph shall be inserted, namely:—

'4. In the case of a Judge to whom this Part applies and who has retired on or after the commencement of the High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1986, the foregoing provisions of this Part shall have effect subject to the modifications that—

(*i*) in paragraph 2,—

(A) **in clause** (b), **for the figures "500" and 2,500', the figures "1,600" and "8,000' shall respectively be substituted;**

(*B*) after clause (*b*), the following proviso shall be inserted, namely:—

"**Provided that the pension under clause (a) and the additional pension under clause** (b) **together shall in no case exceed Rs. 54,000 per annum in the case of a Chief Justice and Rs. 48,000 per annum in the of any other Judge.**";

(*ii*) paragraph 3 shall be omitted.'.

CHAPTER III

AMENDMENT OF THE SUPREME COURT JUDGES (CONDITIONS OF SERVICE) ACT, 1958

Amendment of section 4.

7. In section 4 of the Supreme Court Judges (Conditions of Service) Act, 1958 (hereafter in this Chapter referred to as the Supreme Court Judges Act), in sub-section (*2*), in clause (*a*), in sub-clause (*iii*), for the words "four months in terms of leave on half allowances", the words "one hundred and eighty days in terms of leave on full allowances" shall be substituted.

Amendment of section 16A.

8. In section 16A of the Supreme Court Judges Act,—

(*a*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(1) **Where a Judge who, being in service on or after the commencement of the High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1986,—**

(a) dies before retirement, family pension calculated at the rate of fifty per cent of the pension admissible to him

on the date of his death shall be payable to the person or persons entitled thereto and the amount so payable shall be paid from the day following the date of death of the Judge for a period of seven years or for a period up o the date on which the Judge would have attained the age of sixty-five years, had be survived, whichever is earlier, and thereafter at the rate of half of the family pension so admissible; and

41 of 1958.

(b) dies after retirement, family pension calculated at the rate of half of the pension so admissible to him shall be payable to the person or persons entitled thereto.

Explanation.— **For the purposes of determining the person of persons entitled to family pension under this sub-section,—**

(i) in relation to a Judge who elects or is eligible to receive pension under Part I of the Schedule, the rules, notifications and orders for the time being in force with regard to the person or persons entitled to family pension in relation to an officer of the Central Civil Services, Group 'A', shall apply;

(ii) in relation to a Judge who elects to receive pension under Part II or Part III of the Schedule, the ordinary rules of his service if he had not been appointed a Judge with respect to the person or persons entitled to family pension shall apply and his service as a Judge being treated as service therein."

(b) **in sub-section** (2), **in clause** (iii), **for the words "thirty thousand rupees", the words "fifty thousand rupees' shall be substituted;**

(*c*) in the *Explanation*, for the words "In this section", the words, brackets and figure "In sub-section (*2*)" shall be substituted.

Insertion of new section 20A.

9. After section 20 of the Supreme Court Judges Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 5th day of September, 1977, namely:—

Deposit Linked Insurance Scheme.

"20A. The Deposit Linked Insurance Scheme for the time being in force under the General Provident Fund (Central Services) Rules, 1960, shall apply to every Judge whether he subscribes to the General Provident Fund (Central Services) or any other Provident Fund referred to in section 20.".

Substitution of new section for section 23A.

10. In the Supreme Court Judges Act, for section 23A, the following section shall be substituted, namely:—

Conveyance facilities.

"23A. **Every Judge shall be entitled to a staff car and one hundred and fifty litres of petrol every month or the actual consumption of petrol per month, whichever is less.**"

Amendment of section 23B.

11. In section 23B of the Supreme Court Judges Act, for the words "five hundred rupees per month and three hundred rupees", the words "one thousand two hundred and fifty rupees per month and seven hundred and fifty rupees" shall be substituted.

Amendment of the Schedule.

12. In the Schedule to the Supreme Court Judges Act,—

(*a*) in Part I, after paragraph 6, the following paragraph shall be inserted, namely:—

'7. In the case of a Judge to whom this Part applies and who has retired on or after the commencement of the High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1986, the foregoing provisions of this Part shall have effect subject to the modifications that—

(*i*) in paragraph 2,—

(A) **in clause** (b), **for the figures "470", "20,000'** and "1,200", the figures "1,235", "37,500" and "3,150" **shall be respectively be substituted.**

(B) in the proviso, for the figures "26,000, the figures "60,000" shall be substituted;

(*ii*) to paragraph 3, the following proviso shall be added, namely:—

"Provided that the pension under this paragraph shall in no case exceed Rs. 54,000 per annum.".

(*iii*) in paragraph 5, for the figures "7,500", the figures "19,700" shall be substituted;

(*iv*) paragraph 6 shall be omitted.';

(*b*) in Part III, after paragraph 3, the following paragraph shall be inserted, namely:—

'4. In the case of a Judge to whom this Part applies and who has retired on or after the commencement of the High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1986, the foregoing provisions of this Part shall have effect subject to the modifications that—

(*i*) in paragraph 2,—

(*A*) in clause (*b*), for the figures "500" and "2,500", the figures "1,600" and "8,000" shall respectively be substituted;

(*B*) after clause (*b*), the following proviso shall be inserted, namely:—

"Provided that the pension under clause (a) and the additional pension under clause (b) together shall in no case exceed Rs. 60,000 per annum in the case of the Chief Justice and Rs. 54,000 per annum in the case of any other Judge.";

(*ii*) paragraph 3 shall be omitted.'.

STATEMENT OF OBJECTS AND REASONS

Since the passing of the High Court Judges (Conditions of Service) Amendment Act, 1976, and the Supreme Court Judges (Conditions of Service) Amendment Act, 1976, there has been no material modification of the conditions of service of High Court and Supreme Court Judges. There has been a persistent demand for the improvement of the conditions of service of the Judges of the High Courts and Supreme Court. Having considered all aspects of the matter, it is proposed to allow them certain benefits apart from the increase in their salaries.

2. When a High Court Judge is elevated as a Supreme Court Judge, he is entitled to carry forward leave on half allowances up to four months. However, when a person, who is holding a pensionable post under the Union or State Government is elevated as a High Court Judge, he is not entitled to carry forward the leave standing to his credit at the time of his elevation. The Judges of High Courts and Supreme Court have been extended the benefit of encashment of unutilised leave on full allowances standing to their credit at the time of their retirement. In the absence of any provision for carry forward of leave on full allowances to the Judges, they are not in a position to avail of the benefit of encashment of leave on full allowances up to the maximum permissible limit of 180 days. It is, therefore, proposed to give the benefit of carry forward of leave on full allowances up to a maximum of 180 days to a person holding a pensionable post under the Union or a State Government elevated as a High Court Judge, and also to a Judge of a High Court elevated to the Supreme Court.

3. The benefit of conveyance allowance was extended to the Judges with effect from 1-10-1974 and the amount of conveyance allowance was then fixed at Rs. 300 per month. Presently, Judges of High Courts and Supreme Court are entitled to a conveyance allowance of Rs. 500 subject to the maintenance of a motor car by them. Since then, the price of petrol and also the maintenance cost of the car have increased considerably. It is, therefore, proposed to provide every Judges of a High Court and Supreme Court with a staff car and also 150 litres of petrol per month.

4. At present, the Chief Justices of High Courts are entitled to a sumptuary allowance of Rs. 300 per month. The Chief Justice of India and the Judges of Supreme Court are entitled to a sumptuary allowance of Rs. 500 per month and Rs. 300 per month respectively. It is now proposed to increase the sumptuary allowance payable to the Chief Justice of India to Rs. 1,250 per month and of the Judges of Supreme Court to Rs. 750 per month. It is also proposed to enhance the sumptuary allowance payable to the Chief Justices of High Courts to Rs. 500 and to give a sumptuary allowance of Rs. 300 to the Judges of High Courts.

5. In the case of Central Government employees, the ceiling on pension was removed and the dearness allowance up to 568 points was allowed to be included in the basic pay for calculation of pension, resulting in considerable increase in their pension. There has, however, been

no increase in the pension of Judges of High Courts/Supreme Court, especially in the case of Judges elevated from the Bar. The rate of pension in the case of Judges of the High Courts/Supreme Court was last increased in 1974. Along with the proposed increase in the salary of the Judges of the High Courts/Supreme Court, their pensionary benefits are also required to be improved.

6. The rates of pension have been calculated at the rate of 50 per cent of the enhanced salary and the minimum pension that is payable has been worked out proportionately. The ceiling on maximum pension per annum payable to a Judge is restricted to 50 per cent of the salary drawn by him at the time of his retirement.

7. With the proposed increase in the pension of a Judge commensurate with the increase in his salary, it is proposed to increase the family pension, payable to his family after his death, at the rate of 50 per cent of his pension admissible to him on the date of death, up to 7 years from the date of his death or till he would have attained the age of 65 years had he survived, whichever is earlier, and thereafter, at the rate of 50 per cent of the above amount.

8. The Death-cum-Retirement Gratuity in the case of Central Government employees was increased from Rs. 36,000 to Rs. 50,000 with effect from 31-3-1985. In the case of Judges also, it is proposed to increase the Death-cum-Retirement Gratuity from Rs. 30,000 to Rs. 50,000.

9. The Deposit Linked Insurance Scheme was notified by the Government of India in 1975, with a view to providing extra social security to the families of the subscribers of Provident Funds. The Judges of High Courts and Supreme Court become entitled to the benefit of this Scheme by virtue of the residuary provisions contained in the High Court Judges Rules and Supreme Court Judges Rules. However, the Deposit Linked Insurance Scheme was incorporated in the General Provident Fund (Central Services) Rules, 1960 in 1977. Thus, those Judges, who are entitled to subscribe only to General Provident Fund (Central Services) are entitled to the Deposit Linked Insurance Scheme and not those Judges, who subscribe to the State Provident Funds. It is proposed to give the benefit of Deposit Linked Insurance Scheme even to those Judges, who subscribe to the State Provident Funds.

It is, therefore, proposed to restore the position obtaining before 5-9-1977 by making all the Judges entitled to the benefit of the Deposit Linked Insurance Scheme, irrespective of whether they subscribe to the General Provident Fund or to the State Provident Funds. Hence this amendment is proposed to be given retrospective effect, *i.e.* with effect from 5-9-1977, the date on which this Scheme was inserted in the General Provident Fund (Central Services) Rules, 1960.

10. The Bill seeks to amend the High Court Judges (Conditions of Service) Act, 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958 to achieve the above mentioned objectives.

NEW DELHI; A. K. SEN.

The 4th August, 1986.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 24|100|85-Jus, dated the 6th August, 1986 from Shri Asoke Kumar Sen, Minister of Law and Justice to the Secretary-General, Lok sabha.]

The President, having been informed of the subject matter of the High Court and Supreme Court Judges (Conditions of Service) Amendment Bill, 1986, recommends the introduction and consideration of the Bill in Lok Sabha under article 117(1) and (3) of the Constitution of India.

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to amend section 4 of the High Court Judges (Conditions of Service) Act, 1954 to enable the High Court Judges elevated from service to carry forward leave on full allowance standing to their credit at the time of their elevation, subject to a maximum of 180 days. At present, these Judges are not entitled to carry forward the leave standing to their credit at the time of their elevation to the High Court. However, the High Court Judges are entitled to encashment of unutilised leave standing to their credit at the time of their retirement, subject to a maximum of 180 days. In view of this encashment benefit, which is already extended to the Judges, there will not be any additional financial liability in extending the present benefit of carry forward of leave.

Similarly, clause 7 of the Bill seeks to amend section 4 of the Supreme Court Judges (Conditions of Service) Act, 1958 so as to enhance the limit of carry forward of leave in the case of Supreme Court Judges elevated from the High Courts. At present they are entitled to carry forward leave on half-allowance subject to a maximum of 4 months. They will now be entitled to carry forward the leave on full-allowance standing to their credit at the time of their elevation from the High Court subject to a maximum of 180 days. The enhancement of the limit of carry forward of leave will not involve any additional financial implications as they are already entitled to encashment of unutilised leave standing to their credit at the time of their retirement, subject to a maximum of 180 days.

2. Clauses 3(a) and 8(a) of the Bill seek to amend section 17A of the High Court Judges (Conditions of Service) Act, 1954 and section 16A of the Supreme Court Judges (Conditions of Service) Act, 1958, so as to enhance the Family pension payable to the family of a Judge, who dies while in service or after his retirement at the rate of 50 per cent of the pension admissible to him on the day of his death up to 7 years from the date of death or upto the date on which the Judge would have attained the age of 65 years had he survived, whichever is earlier and thereafter at the rate of 50 per cent of the above amount. At present, the family of a Judge elevated from the Bar is entitled to a Family Pension of Rs. 500 per month for a period of 7 years or up to the age of 65 years, as the case may be and thereafter at the rate of Rs. 250 per month. In the case of other Judges, family pension is granted as per the rules of the service to which they belong. The expenditure on this account in respect of Judges of the Supreme Court and Delhi High Court, will be charged on the Consolidated Fund of India. The expenditure on this account in respect of Judges of other High Courts will be first charged on the Consolidated Fund of India and subsequently recovered from the States. In the case of Judges to whom Family Pension would be payable, it is to be paid whether they die while in service or after retirement. In the very nature of things, it is not possible to work out the precise expenditure on this account. At present the sanctioned strength

of the Supreme Court is 26. Assuming that all the 26 Judges retire in the near future after attaining the age of 65 years and the Family Pension has been paid after their retirement, the total amount of annual recurring expenditure will be of the order of Rs. 2,73,600 per year. Similarly, in the case of Judges of the Delhi High Court, the sanctioned strength is 27. Assuming that all the 27 Judges retire in the near future after attaining the age of 62 years and the Family Pension has been paid after their retirement, the total amount of annual recurring expenditure will be of the order of Rs. 4,05,000 per year for the first three years and thereafter the annual recurring expenditure will be of the order of Rs. 2,02,500 per annum.

3. Clauses 3(b) and 8(b) of the Bill seek to amend section 17A of the High Court Judges (Conditions of Service) Act, 1954 and section 16A of the Supreme Court Judges (Conditions of Service) Act, 1958, to entitle the Judges to the grant of enhanced rate of Death-cum-Retirement Gratuity of Rs. 50,000. The present limit is Rs. 30,000. The expenditure on this account in respect of the Judges of the Supreme Court and the Delhi High Court is charged on the Consolidated Fund of India. In respect of Judges of other High Courts, the additional expenditure will be first charged on the Consolidated Fund of India and subsequently recovered from the States. During the next 4 years, 10 Judges of Supreme Court and 10 Judges of Delhi High Court will be retiring. The additional expenditure in this regard to the Central Government will be of the order of Rs. 1,00,000 per annum (recurring) on an average for the next 4 years.

4. Clauses 4 and 9 of the Bill seek to make new provision in the High Court Judges (Conditions of Service) Act, 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958 to entitle the Judges, who subscribe to the State Provident Fund to get the benefit of Deposit Linked Insurance Scheme [as provided under the General Provident Fund (Central Services) Rules, 1960] with effect from 5-9-1977 [the date on which the Deposit Linked Insurance Scheme was incorporated in the General Provident Fund (Central Services) Rules, 1960]. The benefit of Deposit Linked Insurance Scheme was extended in 1975 to all the Judges of the Supreme Court and High Courts under the residuary provisions of the High Court Judges Rules, 1956 and the Supreme Court Judges Rules, 1959. However, the benefit ceased to be applicable to the Judges of the Supreme Court and the High Courts who subscribed to the State Provident Funds from 5-9-1977, i.e., from the date on which the Deposit Linked Insurance Scheme was included in the General Provident Fund (Central Services) Rules, 1960. These clauses seek to regularise the matter. In view of this, no additional financial liability is involved in extending the Deposit Linked Insurance Scheme with effect from 5-9-1977.

5. Clauses 5 and 10 of the Bill seek to amend section 22B of the High Court Judges (Conditions of Service) Act, 1954 and section 23A of the Supreme Court Judges (Conditions of Service) Act, 1958 to entitle every Judge of the Supreme Court and the High Courts to a staff car with 150 litres of petrol per month for official purposes. The expenditure on this account in respect of the Judges of the Supreme Court and the Delhi High Court will be charged on the Consolidated Fund of India. In respect of Judges of other High Courts, the expenditure will be charged on

the Consolidated Funds of the States. The sanctioned strength of the Judges of the Supreme Court and the Delhi High Court is 26 and 27 and the existing number of staff cars is 7 and 6 respectively. The expenditure in respect of additional staff cars works out to Rs. 40 lakhs (non-recurring) and the recurring expenditure towards petrol charges works out of Rs. 6,99,300 per annum. Since the Judges of the Supreme Court and the High Courts will not now be entitled to the conveyance allowance of Rs. 500 per month, the actual additional expenditure will be Rs. 3,81,300 per annum (recurring).

6. Clause 5 of the Bill also seeks to amend section 23C of the High Court Judges (Conditions of Service) Act, 1954 to enhance the sumptuary allowance in the case of Chief Justices of High Courts from Rs. 300 per month to Rs. 500 per month and to allow the sumptuary allowance of Rs. 300 to the Judges of the High Courts. High Court Judges are not entitled to any sumptuary allowance at present. Similarly, clause 11 of the Bill seeks to amend section 23B of the Supreme Court Judges (Conditions of Service) Act, 1958 to enhance the sumptuary allowance in the case of the Chief Justice of India from Rs. 500 per month to Rs. 1250 per month and in the case of other Judges from Rs. 300 per month to Rs. 750 per month. The additional expenditure in the case of Judges of the Supreme Court and the Delhi High Court will be charged on the Consolidated Fund of India. In respect of Judges of the other High Courts, the expenditure will be charged on the Consolidated Funds of the States. The additional recurring expenditure in the case of Supreme Court Judges will be Rs. 1,44,000 per annum and in the case of Delhi High Court Judges it will be Rs. 96,000 per annum.

7. Clauses 6 and 12 of the Bill seek to amend the First Schedule to the High Court Judges (Conditions of Service) Act, 1954 and the Schedule to the Supreme Court Judges (Conditions of Service) Act, 1958, respectively to give enhanced pension to the Judges. The maximum pension that will be admissible to a Judge of the Supreme Court and High Courts is Rs. 54,000 per annum and Rs. 48,000 per annum, respectively. The present limit is Rs. 28,000 and Rs. 22,400 respectively. The maximum pension that will be admissible to the Chief Justice of India and a Chief Justice of a State is Rs. 60,000 per annum and Rs. 54,000 per annum, respectively. The additional expenditure in respect of the Judges of the Supreme Court and the Delhi High Court will be charged on the Consolidated Fund of India. In respect of Judges of other High Courts, the additional expenditure will be first charged on the Consolidated Fund of India and subsequently recovered from the States. During the next 2 years, 4 Judges of the Delhi High Court will be retiring and hence the average increased liabilities for the next 2 years will be of Rs. 47,200 per annum. Similarly, during the next 2 years, 5 Judges of the Supreme Court will be retiring and hence the average increased liability for the next 2 years will be Rs. 52,000 per annum.

8. There will be no other recurring or non-recurring expenditure on account of proposals contained in the Bill.

SUBHASH C. KASHYAP,
Secretary-General.

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